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FISHERY MANAGEMENT AND ENFORCEMENT IN THE BERING SEA

HEARING

BEFORE THE

NATIONAL OCEAN POLICY STUDY

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

FISHERY MANAGEMENT AND ENFORCEMENT IN THE BERING SEA

MARCH 16, 1988

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FISHERY MANAGEMENT AND ENFORCEMENT IN THE BERING SEA

WEDNESDAY, MARCH 16, 1988

U.S. SENATE,
NATIONAL OCEAN POLICY STUDY,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 9:34 p.m., in room 253, Russell Senate Office Building, Hon. Brock Adams presiding.

Staff members assigned to this hearing: Mike Nussman and Penny Dalton, professional staff members; and Bob Eisenbud, minority professional staff member.

OPENING STATEMENT BY SENATOR ADAMS

Senator ADAMS. The committee will come to order.

We are expecting, in addition to the other witnesses, Senator Murkowski and Representative Young. I may break into one of the panels in order that they have an opportunity to testify, but we have a number of witnesses this morning, and Senator Stevens and I want to be certain that as many as possible can be heard.

Two crucial issues relating to fishery management in the Bering Sea are the concern of this hearing. The first concerns increased foreign fishing in the area of international waters located between the American and Soviet Exclusive Economic Zones, known as the donut hole. This activity has certain obvious but as yet unquantified effects on the management of our pollock stocks. The second issue involves the obvious weaknesses in our ability to enforce our fishing laws. As troubling as our problems in this regard are today, they will be even worse tomorrow unless we take prompt action.

Both of these problem areas are, in my opinion, the predictable results of success. In 1976, Congress passed the Magnuson Act in order to assert effective management control over our fisheries resource and to encourage American participation in this industry. After just over a decade of this policy of Americanization of our fisheries, this has been a major American success story in the North Pacific, providing new prosperity for the entire region.

A predictable result of the displacement of the foreign fleet has been the effort by foreign fleet fishermen to find a way to stay in business. Large numbers have turned their attention to the high seas region of the Bering Sea known as the donut hole. Since 1984, reported donut hole harvests by vessels from Japan, Korea, Poland and China, have increased from around 200,000 tons to what is estimated to be over a million tons in 1987.

Other foreign vessels have resorted to illegal fishing, especially in waters near the donut hole region. Dramatic evidence of this illegal activity was provided early this year when a private U.S. industry group videotaped several foreign fishing vessels engaged in fishing operations some 38 miles inside U.S. waters. This evidence has also prompted U.S. fishermen to question whether the fish reported as being caught in the donut hole region were actually taken from U.S. waters.

Clearly, the success of our Americanization policy now presents us with a challenge. I believe this challenge should have been anticipated, and I am disturbed by the fact that we are so far behind the curve in responding at the Federal level to these developments. We must act quickly to assert effective control over our fisheries resources in the Bering Sea and preserve the vitality of our growing fishery industry.

There are a number of specific steps we can take. First, we must have better information about what is going on in the donut region. As we will see today, our existing information is just plain inadequate. We need to find out whether the pollock in the donut come from a distinct stock or, whether they are part of the stock that inhabits our own waters. We also need to find out if the pollock population inside the donut is capable of sustaining the level of effort now claimed by the foreign fishing fleet.

Second, we need to do a better job of enforcing our fishery laws. To an extent, this is a problem of shrinking resources. Certainly, reductions in enforcement efforts, such as those recently imposed on the Coast Guard for the remainder of this year, do not help matters. I recognize the seriousness of these budget reductions and am committed to working with the Coast Guard to address their pressing budget needs.

Enhancing our enforcement efforts, however, will not solve our problems unless we recognize that our current enforcement policy will soon be outdated. Development of a new policy will involve some tough choices. Currently, enforcement efforts are focused on foreign vessels with permits to fish in our water. In exchange for permission to fish, we require foreign fishermen to accept certain conditions such as placement of observers on their boats. As the industry becomes Americanized, however, fewer permits are being issued to foreign vessels. Sooner or later, whatever enforcement requirements we impose will have to be imposed as a condition for passage by a fishing boat through our water. We will have no other mechanism for enforcing our laws.

Obviously, any interference with the traditional right of innocent passage is an extremely sensitive issue in terms of our national security implications. The Department of Defense has traditionally been particularly concerned about these implications, and they have been asked to share their views with this committee in writing.

I appreciate the sensitivity of this issue. However, as a Senator representing a fishing State, I must make it clear to all interested federal agencies, that in order to enforce our fisheries laws and protect both the fisheries resource and the fisheries industry, we have to tackle this difficult issue.

It is my hope that this hearing today will help us better appreciate what we know and what we do not know about fishing in the donut area, and these related management and enforcement issues.

Before we start this morning, a few housekeeping matters. First, I would like to express my appreciation to the Chairman of the Committee, Senator Hollings, for responding so quickly and graciously to the request for this hearing submitted by myself, Senator Evans and others who wanted to have this matter examined. My good friend, Senator Stevens from Alaska, has been in the forefront of this matter, and I see that both he and Senator Evans are here. If Senator Murkowski appears, we will of course offer him the opportunity to not only testify, but if he wishes, to participate in the hearing.

I want to further express my appreciation to the Commerce Committee staff who have been very helpful in putting this hearing together on relatively short notice. I thank them for their assistance.

Second, industry interest in this hearing has been very high, and the committee has had to process numerous requests by individuals who wanted to testify. This level of interest has had two consequences for us today. First, there simply was not enough time to hear from everyone who wanted to appear, including individuals with a long established history of activism on this issue. In this regard, I particularly would like to mention the Alaska Crab Coalition, who played a leadership role in developing cooperative joint ventures with the Soviet Union. The Soviet Union, as we all know, borders the donut hole on one side.

In this case and in many others, I encourage those who are unable to testify orally today to submit written statements for inclusion in the permanent record of this hearing.

Second, for the fortunate few who are with us, there is a price to pay for their appearance, which I regret but I will have to enforce. With the exception of Ted Evans and Sam Hjelle, who will show us the videotape they made in January of illegal foreign fishing, I am going to have to ask the industry witnesses to observe the five minute rule in making their statements. If they do not observe it, I will have to enforce it. I regret that, but it is simply necessary so that we may hear from as many people as possible.

Your statements will be included in full in the record.

Senator Hollings has an opening statement that he would like to have included in the record.

[The statement follows:]

OPENING STATEMENT BY THE CHAIRMAN

Good morning. We are here today to hear testimony on fishery management and enforcement in the Bering Sea, specifically on an area known as the "doughnut hole". Because the doughnut hole is located between the exclusive economic zones (EEZ) of the United States and the Soviet Union, there is no regulation of fishing activities in the area. Back in 1976, the Magnuson Fishery and Conservation Act (MFCMA) was established, resulting in the 200 mile zone as we know it today. This Act has been vital to preserving American fishery resources. At this time, however, there is understandable concern on the part of American fishermen and processors, whose operations may be affected by the presence of foreign vessels.

Recent evidence indicates unregulated foreign fishing in the doughnut hole, as well as illegal fishing in the U.S. EEZ, is increasing. In the last 18 months, 15 vessels believed to be fishing without permits in the U.S. EEZ have been observed by U.S. agencies responsible for enforcement. In addition to those sightings, I under-

stand that we will hear testimony from individuals from the Alaska Factory Trawler Association, who video-taped seven foreign vessels, allegedly fishing illegally some 38 miles within the U.S. EEZ, just this past January.

It is of great concern to me, as I am sure it is to all of you present today, that methods be found to increase the effectiveness of law enforcement and management activities in the Bering Sea. These responsibilities, held by NOAA and the Coast Guard, have been made more difficult by budget cuts. However, I am hopeful that sound, equitable solutions will be found in a timely fashion. It is encouraging that we could all be here today to discuss this important issue, and I look forward to hearing testimony from individuals representing the many different perspectives that must be considered in this matter.

Senator ADAMS. With that in mind, I will call up the first panel. While they are taking their seats, I would like to turn now to Senator Stevens and then to Senator Evans for whatever statements or comments they would like to make at the opening of the hearing.

Senator Stevens.

OPENING STATEMENT BY SENATOR STEVENS

Senator STEVENS. Thank you very much, Mr. Chairman.

I, too, am pleased that Senator Hollings has agreed that we may hold this hearing now. You know, in December of last year, when the North Pacific Fishery Management Council determined that there should be no further allocation of fishery resources made to foreign vessels, we took a real turn for the best. We are now able to harvest all of the fish within our 200-mile zone, and I think that has now focused the attention on the donut.

Incidentally, I might say that I showed this videotape that you are going to see today to a group of visiting Japanese who came and asked for my assistance to help them get additional allocations. I think it makes the very dramatic point that our industry is willing to work together, and I want to comment also on the fact that I am sitting between two Washington Senators today. My colleague will be here soon, and I think that should demonstrate the total cooperation that exists between our two States and our fishing industry on this issue.

I intend to introduce today or tomorrow, and I would be happy to have you and others join me, a resolution to call on the State Department to initiate talks to see if we can get a bilateral agreement with the Soviets to close the donut, on a moratorium basis, to fishing by any nation.

You cannot get to the donut without going through either the Soviet 200 mile zone or the U.S. 200 mile zone. It is a unique place. I think it should be a sanctuary now for a period of time, until we get some reliable information on what are the fishery resources there and whether or not they can stand the intensive fishing that we know is going on there. And of course, we believe, as you have indicated, that some of the catch that is logged from the donut is actually being caught within our 200 mile limit.

I have discussed the concept of a bilateral agreement with the Soviets at international meetings. I have found that they are receptive to the concept of talking about it. We have at the present time, as a matter of fact, fishermen from your State and ours in Khabarousk talking to the Soviets about some new approaches to the North Pacific on an industry-to-industry basis, and I think we should welcome that.

But we should also try to press to see if our government can obtain a bilateral agreement.

Further, I know that you two are working, as we are, on the concept of trying to mandate transponders on all vessels that go through our 200-mile zone. I think the Soviets would be willing to pursue the same concept, and that we should do that so that we will know the location of these foreign fishing vessels that come through either of our zones.

There are some difficult defense points to discuss and work out in that regard, but I think we can take that step.

I hope that we will be able to get some suggestions from the industry as to what further they think we ought to do. I think we ought to explore the concept of observers on our own vessels, at least on a spot basis, so that we can get more details concerning the harvest and where fish are obtained, and the other data that we would get about age and size of the catch, because I think we need to know more now as we go ahead and pursue this fishery on an Americanized basis about what we are doing to make certain that we do not overfish our 200-mile zone.

As I told the Japanese, I do not think we should end up with another Sea of Japan, and we must be very careful as we pursue our fisheries.

Mr. Chairman, members of the committee, I am glad that we are here today to hear statements concerning a great threat to the future of American fisheries in Alaska and the Northwest.

Back in 1976 I worked with Senators Packwood and Magnuson to bring about passage of the now historic Fisheries Conservation and Management Act. At that time we thought that we had effectively established a management regime that would eventually allow full American utilization of the resources within our 200-mile zone. In December 1987 the North Pacific Council took the final step in the Americanization process when they did not allocate any of the fishery resources in our EEZ directly to foreign nations. Yet, less than a month later, seven Japanese vessels were videotaped illegally fishing within our zone.

We believe these vessels do not represent an isolated incident. Instead, they are merely the tip of the iceberg, some of the few who have actually been seen executing a concerted effort by foreign fishermen to use the international waters of the Bering Sea, an area known as the Doughnut, for pirate raids upon the rich fishing grounds inside our 200-mile zone.

One million metric tons of pollock were reportedly caught "in the Doughnut" by foreign fishing vessels in 1986. This figure does not include the salmon, herring, cod, and other marine species that were taken directly or incidentially in this massive fishery. Many of these fish, such as salmon and herring, are vital to fishermen in Alaska, and most of them were probably stolen from within our own EEZ.

The level of foreign fishing reported in the Bering Sea, whether taken in the Doughnut or from our 200-mile zone, poses a grave threat to the long-term viability of one of the world's largest mixed stock fisheries. If we do not take action immediately, we risk a collapse of the resource, with incredible repercussions for both the fishery and the American fishing industry.

The Coast Guard is already making a valiant effort to enforce the Magnuson Act with the limited budget they have been given. I intend to seek the Senate's help to restore Coast Guard funding to the level they need to operate effectively. I also intend to explore a range of technological options for enhancing the existing Coast Guard detection and enforcement capability. But funding and technology alone are not the answer.

We need to make full use of NOAA regulations under the Magnuson Act and the recently passed driftnet legislation which mandates negotiation of effective monitoring and enforcement agreements with nations employing high seas drifnets. In order to have effective enforcement, we must reach an agreement on how data may be presented by the United States to a foreign nation in such a manner that substantial legal action will be taken to punish and deter violators. The penalties for pirate fishing must be made to far outweigh the current illegal gains.

What I have just outlined are the options available to us under existing domestic law, and it is important that we exploit them to the fullest. But it will not be enough to end the present threat our fishery resources. To avert catastrophe, we must take immediate action to create a temporary sanctuary in the Doughnut to protect existing stocks from the ravages of unregulated high seas fishing. This can be done in the near future through bilateral action with the Soviet Union to impose a moratorium on all fishing by all nations in the Doughnut until such time as a multilateral fishery management regime for the area can be agreed upon.

We have a responsibility as a major maritime power to ensure that the ocean's renewable resources will be here for the use of tomorrow's generations. The present state of unregulated fishing in the Doughnut, with the attendant piracy of stocks within our EEZ, could cause the disastrous destruction of a great fishery. We do not have the time to gamble while nations argue over the nature of a multilateral management regime. We must close the Doughnut to protect what remains of the fisheries in the Bering Sea. Once we have eliminated the "wild card" currently posed by uncontrolled fishing in the central Bering Sea, then we will have the time to negotiate an effective international agreement to conserve and allocate any fishery resources that actually exist in the Doughnut. Without a moratorium in place, there will be no impetus for nations currently plundering the Doughnut to speedily negotiate an acceptable multilateral agreement that protects the resource.

In 1976 the concept of a 200-mile fishery conservation zone seemed radical, yet today it is something taken for granted as a sovereign right. Once again the United States must guide the way. The opportunity is here before us. The Soviet Union is willing to join us in taking action to protect the world's most productive mixed stock fishery. I will be introducing a resolution tomorrow to ask that the United States take that step, and immediately negotiate a bilateral closure of the Doughnut to fishing by all nations. The time for action is now, and I hope that you will all join me in this resolution.

I unfortunately have another hearing. I may have to leave later on.

Senator ADAMS. I particularly appreciate your comments with regard to transponders. I hope that the witnesses will address this subject.

We have, as Senator Stevens well pointed out, national security considerations which must be taken into account, but this is something that we are interested in pursuing to give us a definite location of fishing boats.

It gives me a great deal of pleasure to recognize my senior Senator from the State of Washington, Dan Evans.

Dan, welcome this morning.

We will be pleased to receive your statement.

STATEMENT OF HON. DAN EVANS, U.S. SENATOR FROM WASHINGTON

Senator EVANS. Thank you, Mr. Chairman.

I would ask first that my full statement be placed in the record. Then, if I could make about four or five quick points, I hope to keep them within the Chairman's five minute rule.

Senator ADAMS. We will not apply that to you, Senator Evans, but without objection, your statement will be included in full.

We are pleased to have you with us this morning.

Senator EVANS. First, I think this is an extraordinarily important economic element for the United States. I know for the State of Washington, and I suspect for the State of Alaska as well, certainly for the United States as a whole, this new bottom fishing industry has led to an extraordinary new and broadly based series of support industries. The fishing itself has, at least in our State, now exceeded salmon in terms of the direct revenue per year from bottom fishing.

So it is an important economic concern for us.

Secondly, to continue to have it as a viable economic resource, we simply must ensure that we retain the resource. We cannot let it go the way that other ocean resources have gone in past years, where we have simply overfished ending up with good times for a few years, followed by real disasters.

It is obvious from the way in which the fish run here, or where they travel, that this is an international problem, and we simply must work with other nations to ensure that the resource is identified and protected to the extent that there will be a continuing economic benefit for all of us over the years to come.

Third, as an old time navigator, I wish that when I was navigating on a destroyer some 30 years ago, that we had had the modern devices which are now available. I remember very well, Ted, fishing for halibut up in the Cook Inlet on a cloudy day, and the fellow in the boat headed right out for where he knew the hole was—you could not see anything in any direction, but he headed with certainty to precisely where he knew the halibut would be—and we stopped in the middle of a bouncing grey sea and dropped our lines and instantly were into the halibut.

It is cheap and easy for anyone to have the kind of navigational equipment that will place them within feet of where they want to be. So there is absolutely no excuse whatsoever for foreign vessels to ever be outside of that interior donut, if in fact they should be

there at all. But, to be inside the territorial economic zone of the United States or the Soviet Union, for that matter, simply must be deliberate, because there is no other reason to be there. There certainly is no shoreside facility for which they are headed. They are fishing, and they are fishing in our waters, and they are depleting our resource. There is simply no question about it.

As far as the question of ceasing fishing within the donut, I think it would be very helpful to at least have a complete idea of what kinds of resources there are there, to what degree others are fishing there so that we can put that into the total equation, and identify how large the resource is and to what degree it can be fished legitimately.

I would say to the Senator from Alaska, I would be happy to join with him in his proposal, although I think we probably would run into some difficulties, especially from our own Navy who continues to test the freedom of seas right off the coast of Libya. And, we might run into trouble from other countries saying that we are trying to deny them the right of transit on the open ocean, even though they are going through our economic zone.

Senator STEVENS. We will let their navy through. We just want to keep their fishing vessels out.

Senator EVANS. We do have plenty of ways, and we have got to use those ways to ensure that there is a recognition by other nations that this is a significant problem for us in our economic zone. We simply must know what is going on both inside the donut and outside, and do what we can to ensure the sanctity of that resource.

[The statement follows:]

STATEMENT OF HON. DANIEL J. EVANS, U.S. SENATOR FROM WASHINGTON

Mr. Chairman, members of the National Ocean Policy Study, and members of the Commerce Committee, I am pleased to participate in these oversight hearings today regarding Bering Sea fishery enforcement. I would like to welcome those who will be offering testimony, particularly those from Washington State--Dr. Lee Alverson with Natural Resource Consultants, Bob Alverson, Manager of the Fishing Vessel Owners Association, Barry Collier, President of Pacific Seafood Processors Association, Ted Evans, Executive Director of the Alaska Factory Trawlers Association, and Sam Hjelle, Co-owner of Glacier Fish Company. I thank you for being here today and look forward to hearing your testimony.

The U.S. fishing industry has long been convinced that there has been substantial unauthorized and illegal foreign fishing in the U.S. exclusive economic zone (EEZ) off Alaska, particularly in and around the so-called "doughnut" area. It is only now, after our fishermen took it upon themselves to obtain hard evidence, that the issue is receiving the attention it deserves. And, it has gotten our attention and the Administration's. This is a problem not only of fishery conservation but also one of international affairs. And, unfortunately, this is a problem that lacks a clear mechanism affording a solution.

Our concerns are based on several factors. First, fish that are indigenous to U.S. waters are showing up in large quantities for sale in Japanese markets. There is evidence that recorded shipments of processed products from the U.S. zone may exceed legal catches from both the U.S. EEZ and doughnut area. Second, U.S. fishermen have observed foreign vessels within U.S. waters in areas where no joint ventures occurred and where no foreign fishing was authorized. Large numbers of foreign vessels have been sighted in the U.S. zone in areas where no foreign trawling is authorized. There is no reason other than fishing for these boats to be there. Additionally, in our efforts to completely Amercanize the fishing industry, foreign countries previously permitted to fish in our zone are no longer receiving fish allocations. Some of these foreign fishing efforts have simply moved to the international waters of the doughnut region. Due to this displacement, there is the obvious con-

cern that with the decrease and elimination of foreign fish allocation in the EEZ, the incentive for illegal fishing has increased.

As it turns out, these concerns were clearly justified. This past January, the Alaska Factory Trawler Association chartered a plane to search for illegal fishing. This expedition sighted seven fishing vessels fishing illegally and noted other vessels in the area which may have been involved in similar illegal activities. Four of the seven vessels were identified as Japanese by their vessel identification numbers. We do not claim this problem lies solely with the Japanese—there are other nations actively fishing in and around the doughnut area. The point is that the vessels sighted were fishing illegally in the U.S. EEZ. This industry initiative served to prove what a good share of the U.S. industry already believed. The results of these efforts raised the attention of many—generating this hearing today.

As I mentioned earlier, this is not solely a matter of illegal fishing. There is also an important management principal at stake as well. I believe it makes sense not to harvest fish in the doughnut area, until we have better information on the status of stocks in that area. We need a clearer definition of the actual impact of fishing in the doughnut area on the stocks from the U.S. EEZ. We need more information on the actual stocks harvested in the doughnut and we need to know their origin. These questions and others should be answered before decisions concerning appropriate resource management can take place within the U.S. EEZ. These questions also require answers before we can assess which management regime, if any, will be most beneficial to the conservation and sustainability of the Bering Sea resources. Should we find that few stocks inhabit the doughnut, then we can only assume that substantial illegal fishing is occurring in our zone and we should concentrate our efforts on surveillance and enforcement.

We need a balanced approach to solving the problem of illegal foreign fishing. This hearing cannot and should not be the culmination of this issues visibility. There is no way for any one person or one agency to assess what, if any, technology would best serve itself in an overall solution. And, inherent in all potential solutions is the affect and impact upon U.S. international relations. Such items need the benefit of thoughtful and thorough interagency discussions. A thorough assessment of all possibilities is critical to the existence of our fishery resource.

I hope that today's hearing and the questions we raise will spur us to find viable solutions.

Senator ADAMS. Thank you very much, Senator Evans.

Senator Murkowski, it is a pleasure to welcome you to the committee this morning.

The committee is most pleased to receive not only a statement from you, but if you wish to remain and question witnesses, we would welcome your participation.

Senator Murkowski of Alaska.

STATEMENT OF HON. FRANK MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Thank you. You are very kind with that warm introduction, Mr. Chairman. It is a pleasure to be with my colleagues. It is not often that we have the entire breadth of most of the West Coast together on one side of the table. I refer to this side in general terms.

Mr. Chairman, I have a rather lengthy statement which I will submit for the record.

Senator ADAMS. Without objection, it will be included in full in the record.

Senator MURKOWSKI. I would like to make a short summary with regard to appropriate action that I think bears examination by this committee and recommendations providing specific direction to the appropriate agencies, including the issue of research to be undertaken to establish whether or not ground fish stocks in the donut hole are linked with those in the U.S. Exclusive Economic Zone, which I am certainly convinced in my own mind that they are. But

the reality is that we need more scientific evidence to make our case.

It is often required that we present so-called proof or evidence, but more often than not it proves to be inadequate, and there is always a need for more.

Secondly, Mr. Chairman, management and enforcement should be directed to immediately develop and implement a plan to improve the monitoring of foreign fishing vessel activities, including such concepts as check-in procedures, as one example. There have been other suggestions that a bond be posted by fishing vessels, to be available if they illegally violate a closed area. The problem, of course, is implementation, and the check and balance necessary to police such action.

However, I think a stringent check-in procedure, covert enforcement operations by the Coast Guard, more night patrols, the utilization, I believe it has been discussed, of transponders and other state-of-the-art identification all have merit. We have the capability. It is known that the transponders do provide data on longitude, and latitude. They can provide identification numbers, and we are not utilizing this technology, even though we have reason to believe that it would provide positive identification.

We have also got the capability of fast tracking through the installation of long range radars capable of reading transponder signals.

We have often heard the excuse that we can't use the satellites because they are for other purposes, but I think we have to proceed with the state of the art technology.

Further, there is an immediate need to start negotiations toward a multilateral resolution of all the fisheries issues, which I have referred to in the text of my full statement, with a clear deadline. In other words, we have to establish some dates where we are going to get agreement by the other nations that we are either going to jointly manage the resource within the donut area with a workable enforcement capability, or we are clearly going to go to a bilateral alternative, which is to initiate negotiations with the Soviet Union which would basically take the issue of the donut hole and leave it between two nations and leave out the other nations that are currently active in the area.

Now, the reality of using that as leverage has merit. It also has a potential down-side. But from the standpoint of encouraging the nations to get together on a multinational effort to try and address the regulatory necessity of getting a handle on this area so we don't have to look at figures that suggest that while we may see evidence of what the take is, we suddenly are confronted with the reality that there appear to be more fish shipped out of the area than were actually caught. And we have this differential which leads us to question whether indeed we can sustain the fisheries on the basis of accurate knowledge when we see variances in reporting.

It is clearly necessary, Mr. Chairman, that we get the countries involved together. If they don't want to get involved in a meaningful manner, then it is clear that we should pursue another alternative. And that's a bilateral effort, perhaps with the Soviets, to just

close the area and be done with it. And I think that kind of leverage would get a little more attention than we have previously had.

So, I commend you, Mr. Chairman, and my colleagues for addressing this situation because if we don't do something very soon, we might be in a situation where somebody is out there catching the last fish.

Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR FROM ALASKA

Mr. Chairman, members of the committee, I thank you for the opportunity to present my views.

It is now clear that the efforts of this and previous Congresses to Americanize the fisheries in the U.S. exclusive economic zone have borne two kinds of fruit.

One has ripened into sweet victory for our own fishing industry, which is now capable of harvesting all, and processing nearly all, of our own resources.

The other is less savory. It now appears our success in moving others off our fishing grounds has triggered widespread, organized poaching, with the international waters of the Bering Sea "Donut Hole" as a staging area for raids into U.S. waters. The evidence of such large-scale poaching is convincingly strong.

Mr. Chairman, make no mistake about it—the United States is under seige.

On a purely economic level, we are faced with a potential loss to the U.S. economy of hundreds of millions—perhaps well over over a billion—dollars annually.

Worse still, unrecorded and illegal fishing threatens the viability of the entire ecosystem. We are face to face with the potential for a tragedy of huge proportions.

In either case, action is clearly needed.

In that regard, let me touch first on efforts I believe we can and should undertake immediately.

First, we badly need to reinforce our understanding of the relationship between groundfish inside the Donut Hole, and in adjacent areas of the EEZ. If the stocks are closely related, as many experts now believe, then any long-term solution must fully address that fact.

In the meantime, however, we must take storng measures to prevent overfishing in the United States 200-mile zone. Much needs to be done to strengthen our present management and law enforcement efforts.

For example, foreign vessels entering or leaving the U.S. zone for any purpose consistent with the Magnuson Act's definition of "fishing" can be required to check in and check out either by radio contact with the Coast Guard or by calling at a U.S. port before proceeding. Even if a port call were actually required in only a few percent of the cases, the threat of being called in for examination would be very discouraging to potential violators.

In the area of enforcement, the Coast Guard should adopt a "covert" approach. Expanded night operation, maintining radio and radar silence when approaching fishing grounds, and other such efforts, could substantially improve the enforcement "catch rate."

I have spoken before about the use of "transponder" technology to help resolve this problem. All foreign vessels meeting the broad Magnuson definition of "fishing" can and should be required to carry devices that transmit the location and identification of the vessels, and allow a means of tracking their movements. These devices can also be "read" directly by APS-137 surface-search radars. The Coast Guard wants to install these new radars on aircraft operating from Kodiak starting in June 1989, but this schedule should be stepped up to bring at least one unit on line as soon as possible. At a cost of approximately $2 million each, this is a sound investment.

Transponder signals also can be read via satellite, but the only presently suitable satellites are covered by an international agreement preventing their use for law enforcement. Still, controlling the level of fishing in this area is at heart an environmental issue, and it may be possible to seek changes that would allow such a use.

The Coast Guard has questioned the capacity of this system; however, I have been assured by other satellite experts that the system could indeed do the job, and in my opinion the satellite option should not be abandoned until we are sure we do not need it.

Finally, let me move on from damage-control to damage-prevention.

Ultimately, we must recognize that the problem stems from the presence of unregulated international waters so near the immensely productive fishing grounds along Bower's Ridge and the 100-fathom line. This is an invitation to disaster, whether or not it occurs through legal overfishing in the Donut Hole or illegal overfishing in the U.S. zone.

I believe, Mr. Chairman, that the Donut Hole fisheries must be regulated, but there is clearly a vast distance between saying so and doing so. Multilateral action to restrict Donut Hole fisheries requires mutilateral agreement, and frankly, Mr. Chairman, I find the prospects for such an agreement extremely remote.

Despite this, a multilateral solution would clearly be preferable to any other, and I believe we should make an effort to bring such an agreement about. If so, however, we must be clear about our intent. The agenda and pace of multilateral discussions should be established by the coastal nations involved, and any agreement must not only resolve the problem of the Donut Hole, but address similar resource issues involving salmon, herring, and squid fisheries, as well. Finally, we must make it completely clear that failure to make rapid, substantive progress will force us to take other steps, such as bilateral action in concert with the Soviet Union.

The latter, if conducted solely for the purposes of conservation, may be both easier to achieve than any multilateral agreement, and narrow enough to avoid some of the difficulties associated with the prospect of unilateral action.

Such action would clearly be effective, whether it consisted of a fishing closure, or a moratorium on fishing until a multilateral agreement can be reached, or an agreement to allow fishing by other nations to continue under regulations similar to those in the Magnuson Act. I will be visiting the Soviet Union this spring, and it is my intention to discuss this issue with Soviet leaders at that time.

This is, in my opinion, the "preferred alternative." No other option suggested to date adequately addresses our desperate need to go beyond "damage-control" to "damage-prevention."

In summary, Mr. Chairman, I urge the members of this committee to support the following specific direction to the appropriate agencies:

Research should be undertaken to establish whether or not groundfish stocks in the Donut Hole are linked with those in the U.S. exclusive economic zone.

Management and enforcement should be directed to immediately develop and implement a plan to improve the monitoring of foreign vessel activities, including such concepts as stringent check-in procedures, covert enforcement operations, requiring transponders on all possible foreign vessels, and "fast-tracking" the installation of long-range surface radars capable of reading transponder signals.

An immediate start to negotiations toward a multilateral resolution of all the fisheries issues noted above, with a clear deadline for substantive progress.

Clear instructions to proceed directly to bilateral negotiations on the Donut Hole issue and others, if the multilateral approach does not show swift, comprehensive progress.

Mr. Chairman, I thank you and the members of this committee for your courtesy, and hope to work closely with you on future action.

Senator ADAMS. Thank you very much, Senator.

Our first panel this morning will consist of Admiral Paul A. Yost, Commandant, U.S. Coast Guard, accompanied by Rear Admiral Robbins, Commander Flanigan, Chief, Fisheries Law Enforcement Branch, U.S. Coast Guard Headquarters; Mr. Jim Douglas, Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, accompanied by Dr. William Aron, Director of Science and Research, Alaska Region, Mr. Morris Pallozi, Chief Enforcement Officer, National Oceanic and Atmospheric Administration; and the Honorable Edward E. Wolfe, Deputy Assistant Secretary for Oceans and Fisheries Affairs, Department of State.

If you would please all come to the table. Also, if you wish to have additional staff help, please introduce them as you begin your testimony so that the Senators will know who is accompanying each of the witnesses.

Admiral Yost, it is a pleasure to welcome you and the other members of the panel here this morning. We will proceed with you as the first witness. We would be pleased to receive your testimony.

Without objection, the full written statements of all members of the panel will be included in the record. You may either read from your statements or summarize them at your pleasure.

Admiral Yost.

STATEMENT OF ADM. PAUL A. YOST, COMMANDANT, U.S. COAST GUARD, DOT; ACCOMPANIED BY REAR ADM. CLYDE E. ROBBINS, CHIEF, OFFICE OF OPERATIONS; COMDR. GEORGE A. FLANIGAN, CHIEF, FISHERIES LAW ENFORCEMENT BRANCH; AND CAPT. L.N. SCHOWENGERDT, CHIEF OF OPERATIONS, PACIFIC AREA

Admiral YOST. Mr. Chairman and members of the committee, it's a pleasure to appear before you today to discuss fisheries enforcement in the Bering Sea. I will summarize my statement.

I would like to mention I have with me Rear Admiral Clyde Robbins on my right who shortly will become the Commander of the Pacific Area headquartered in San Francisco with operational responsibility for all operations along the west coast including the Bering Sea and the Gulf of Alaska.

I also am fortunate to have Captain Nick Schowengerdt, Chief of Operations out of San Francisco, with me, who just happened to be in Washington, who currently schedules those patrols and has operational cognizance over them for the present area commander.

And I brought with me as well Commander George Flanigan who is our fisheries expert in our headquarters office here. And I'll use these gentlemen, with your permission, to answer most of the technical questions and restrict myself to policy and budget issues.

As you know, the Alaska Factory Trawlers Association chartered an airplane in January and discovered seven Japanese fishing vessels fishing without permits in the U.S. exclusive economic zone.

Senator ADAMS. Admiral, if you would suspend for just a moment. Do you want to pull that map back this way just a little so we can see the rest of the witnesses here? I don't want you sitting behind the map there.

Thank you very much. Sorry, Admiral please proceed.

Admiral YOST. These sightings by the Alaska Factory Trawlers Association were not without precedent. Since August of 1986, the Coast Guard has detected 15 foreign vessels fishing illegally in the U.S. EEZ. All of these sightings have been reported to the North Pacific Fishery Management Council. We have patrolled the Bering Sea and the donut hole with cutters and aircraft. Since June 1987, there have been six cutter patrols that were directed to this area and 25 aircraft flights.

Not only have these patrols detected violations of our EEZ, they have collected valuable information on foreign fishing in the high seas area of the donut hole. It was the report of Coast Guard surveillance efforts at the December Fishery Management Council meeting that highlighted the extent of foreign fishing in the donut hole and prompted the AFTA flight.

I have read published reports that there are no pollock in the "Doughnut Hole," that all the fish which foreign countries report as coming from this area are, in fact, illegally taken in our EEZ. We have no evidence that supports that contention. Our cutters and aircraft have witnessed fishing operations in the "Doughnut Hole"; we have observed 20 metric ton haulbacks outside our EEZ. One cutter's commanding officer reported fishing was so good in this area he could see no incentive for fishermen to risk seizure by fishing in our EEZ without a permit. Nevertheless, I do not doubt some illegal fishing occurs in our EEZ, particularly at night or in poor weather.

There are numerous threats to our fishing resources, our enforcement patrols we must try to prevent all of them. We patrol the Japanese land-based salmon fleet. We monitor the high seas squid fisheries. We prevent violations of the halibut openings. We board joint venture participants, and we regulate domestic catcher/processors.

Our resources have been stretched beyond the limit. The EEZ in Alaska includes over 800,000 square miles of water. I was just informed earlier that most of the whole west coast was represented by people at your desk. And that made me realize again the extent of the coastline of Alaska and the State of Washington.

We cannot afford to establish a picket line in the Bering Sea and ignore driftnet vessels taking U.S. origin salmon or domestic vessels harvesting sablefish out of season. We balance our patrols so that a credible deterrent is maintained in all areas. And I would add that the new Annex V of the MARPOL Convention will also put added responsibility on our patrols regarding trash and plastics at the beginning of next year.

Unfortunately, in addition to these problems, our fiscal year 1988 efforts will decrease from last year's levels. Budget reductions will reduce the number of Alaska cutter patrol days by 54 percent and aircraft patrol hours by 55 percent for the remainder of this year. This will weaken our ability to prevent fisheries violations. We have approached both the Navy and the Air Force and asked if they have any resources available to assist in our surveillance in the Bering Sea. Our discussions are at the preliminary stage; we do not yet know if they will be able to help us. We have had some help from the National Oceanic and Atmospheric Administration who have contributed the use of one of their P-3 aircraft. We will continue to pursue other alternatives.

And I would add I think that this is the very worst of economic decisions that have been made by our Congress or perhaps jointly by Congress and the Administration in shorting the Coast Guard the money that we needed to operate in 1988. And I have nothing but fear and trepidation that the same result will come from the Congress' action on the President's budget in 1989. Gratuitously I ask this group to please help in every way that you can to assure that the President's budget in 1989 gets through for the Coast Guard.

There is widespread interest in a high-tech solution to enforcement. The Coast Guard has tested a satellite transponder system over the past 7 years. Such systems are limited in their usefulness. Although there is not an easy solution, we continue to pursue

better ways to conduct our enforcement efforts. In the final analysis, it appears that aircraft must be used to confirm sightings and a cutter has to be available to catch a violator after he is detected.

I would like to assure you, Mr. Chairman, that the Coast Guard remains dedicated to fisheries law enforcement. Consistent with the resources available, we will make every effort to protect the fisheries resources throughout the EEZ and particularly in the valuable northwest fishing areas.

This concludes my prepared statement, sir.

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR STEVENS AND THE ANSWERS THERETO

QUESTION: WHAT IS YOUR VIEW OF THE RELIABILITY AND UTILITY OF THE SATELLITE NAVIGATION SYSTEM THAT THE JAPANESE PROPOSE TO REQUIRE THEIR VESSELS TO INSTALL? WILL IT ENHANCE OUR ENFORCEMENT EFFORTS? WILL IT RELIEVE THE COAST GUARD OF ANY BURDENS?

Answer: The system the Japanese have proposed to require on their vessels uses an on-board receiver to process signals from naval navigation satellites. The receiver computes its position based on these signals. It can be programmed to print this position on a paper tape at regular intervals. The Japanese have offered to provide access to those tapes.

This system will not enhance enforcement efforts and will not relieve the Coast Guard of any burdens. The receiver will only print position on the tape; it will not indicate vessel activity. The tapes themselves can be lost or damaged. Several receivers could be placed on one vessel that fishes legally, generating paper tapes for several vessels that fish illegally. A vessel could fish illegally between times the position is recorded. The sheer volume of paper that must be analyzed will be a daunting task. Finally, it may be possible to electronically alter the receiver to print artificial positions.

The one potential use of this system would be to confirm location of a vessel after it is sighted fishing illegally. This will only be possible if the tapes are not lost or damaged. The Japanese have proposed this system to resolve enforcement problems in the high seas squid driftnet fisheries; it has not stopped violations in those fisheries.

QUESTION: WOULD YOU BE WILLING TO CONVENE A TASK FORCE OF COAST GUARD, NAVY, NOAA, AND INDUSTRY EXPERTS TO IDENTIFY AND EVALUATE "HIGH TECH" APPROACHES TO THIS PROBLEM?

Answer: Yes, the Coast Guard would be willing to convene a task force of those responsible for enforcement to evaluate possible technological improvements. We would like to point out the Coast Guard has not ignored such systems; for example, we have tested a satellite transponder system over the past eight years. We are not confident that we will identify a "high tech" solution that will provide a cost effective, significant improvement in enforcement.

QUESTION. THE DRIFTNET LEGISLATION ENACTED LAST YEAR (TITLE IV OF P.L. 100-200) CALLS FOR NEGOTIATION OF COOPERATIVE ENFORCEMENT AGREEMENTS WITH JAPAN AND OTHERS. HAVE YOU BEEN CONSULTED BY THE SECRETARY OF COMMERCE IN PREPARATION FOR SUCH NEGOTIATIONS?

Answer. Yes. The Coast Guard has been working with the National Marine Fisheries Service and the Department of State on this issue for some time. In addition to last year's efforts to negotiate a driftnet enforcement agreement with the Governments of Japan and South Korea, as well as assisting the American Institute in Taiwan with discussions held with the Coordinating Committee for North American Affairs, we have recently participated in preparations for talks with Japanese representatives to be held on April 4 through April 6.

QUESTION: YOU WOULDN'T NEED TO HAVE A CUTTER AVAILABLE TO CATCH EVERY VIOLATOR, WOULD YOU, IF THE JAPANESE AGREED THAT A SIGHTING WITH PHOTOS OF THE VESSEL, A RECORD OF POSITION ON THE NAVIGATION SATELLITE SYSTEM, OR SOME OTHER SPECIFIED EVIDENCE WERE SUFFICIENT TO PROSECUTE THEM SUCCESSFULY IN JAPAN AND THE UNITED STATES?

Answer: Under current U.S. law, there is no requirement that a cutter be present to document a violation of the Exclusive Economic Zone (EEZ). Affidavits signed by the crew of a surveillance flight are sufficient to support prosecution; photographs, while helpful to strengthen the case, are not a requirement. A cutter on scene, however, can board and identify vessels that have concealed their markings, and can seize a vessel if necessary. Because we assert sovereign rights over all fishery resources within our EEZ, these evidentiary requirements are not subject to the approval of the Japanese.

QUESTION: WOULD YOU SUPPORT DEVELOPMENT OF A GUIDE TO COLLECTION OF EVIDENCE FOR USE BY U.S. FISHERMEN AND REWARDS TO U.S. FISHERMEN WHO PROVIDE INFORMATION LEADING TO SUCCESSFUL PROSECUTION FOR VIOLATIONS IN OUR EEZ?

Answer: We support an evidence reporting guide. U.S. fishermen are in an excellent position to provide information on violations of fisheries laws by both foreign and domestic fishermen. The Coast Guard is willing to work with the National Marine Fisheries Service to develop such a guide.

We hesitate to endorse a reward system without further study. There may be legal and administrative problems that would actually hinder effective enforcement.

QUESTIONS OF SENATOR EVANS AND THE ANSWERS THERETO

QUESTION: SINCE THE INDUSTRY SIGHTINGS OF ILLEGAL FISHING ON JANUARY 13TH AND 14TH, JAPAN HAS INSTRUCTED ALL ITS TRAWLING SHIPS FISHING IN THE BERING SEA TO VOLUNTARILY CARRY NAVSAT EQUIPMENT. WHAT NEW AND OR BENEFICIAL INFORMATION DO YOU BELIEVE THIS WILL PROVIDE TO THE COAST GUARD? FOR THIS TECHNOLOGY TO BE TRULY EFFECTIVE, WOULDN'T U.S. VESSELS ALSO NEED TO CARRY THE SAME EQUIPMENT? HOW DOES NAVSAT COMPARE TO TRANSPONDER TECHNOLOGY IN TERMS OF AIDING THE COAST GUARD IN ENFORCEMENT EFFORTS? WHAT DO EACH OF THESE TECHNOLOGIES PROVIDE YOU, AND IS THERE ANOTHER KNOWN TECHNOLOGY THAT WOULD BE BETTER?

Answer: The system the Japanese have proposed to require on their vessels uses an on board receiver to process signals from naval navigation satellites (NAVSAT). The receiver computes vessel position based on these signals. It can be programmed to print this position on a paper tape at regular intervals. The Japanese have offered to provide access to those tapes.

This system will not enhance enforcement efforts and will not relieve the Coast Guard of any burdens. The receiver will only print a position on the tape; it will not indicate vessel activity. The tapes themselves can be lost or damaged. Several receivers could be placed on one vessel that fishes legally, generating paper tapes for several vessels that fish illegally. A vessel could fish illegally between times the position is recorded. The sheer volume of paper that must be analyzed will be a daunting task. Finally, it may be possible to electronically alter the receiver to print artificial positions.

The one potential use of this system would be to confirm the location of a vessel after it is sighted fishing illegally. This will only be possible if the tapes are not lost or damaged. The Japanese have proposed this system to resolve enforcement problems in the high seas squid driftnet fisheries; it has not stopped violations in those fisheries.

Most transponder systems discussed to date rely on a satellite to relay the position information to a shore station. Other approaches could use a high frequency radio link or broadcast an identifying code when interrogated by a radar signal. The advantage to a transponder system is that it provides position information in near "real time"; vessel locations are, at most, a few hours old.

Unfortunately, transponders have several shortcomings that limit their usefulness. They do not indicate vessel activity, a key element required for proving a fisheries violation. Present law would only allow us to require transponders on vessels fishing in our Exclusive Economic Zone (EEZ). Any system can be undermined or sabotaged by vessels wishing to fish illegally. Available satellite systems are constrained by technical and legal restrictions. Finally, any vessel that wishes to fish illegally can simply choose not to operate or carry a transponder.

For maximum benefit, any system should be used on U.S. vessels in the same area. This is crucial if a radar-based transponder system is implemented; otherwise, patrol units will be unable to distinguish illegal foreign fishing vessels from domestic vessels without visual sightings, reducing the efficiency of the system. The costs of implementing a system on all vessels should be examined closely.

QUESTION: IN YOUR TESTIMONY YOU STATED THAT SINCE AUGUST OF 1986, THE COAST GUARD HAS DETECTED 15 FOREIGN VESSELS FISHING ILLEGALLY IN THE U.S. EEZ. WHAT IS THE STATUS OF THESE SIGHTINGS, AND ASIDE FROM CONTACTING THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL, WHO IS ALSO NOTIFIED OF THESE VIOLATIONS?

Answer: In each of these incidents the Coast Guard notified the Department of State (DOS) and National Marine Fisheries Service (NMFS). DOS made a diplomatic protest to the appropriate flag state, and when evidence was sufficient, NMFS initiated prosecutions. All of the incidents occurred within the U.S. EEZ in the Bering Sea north of the "donut hole." Below is a list of the incidents in chronological order along with the status of each incident.

On August 3, 1986, HOKO MARU NO. 31 was sighted crabbing within the area of the Bering Sea claimed by both the U.S and the Soviet Union as part of each country's EEZ (the US/USSR disputed zone). Although licensed by the U.S. to fish in the U.S. EEZ, the HOKO MARU NO. 31 had not informed U.S. authorities of its intention to fish before it began fishing in the U.S. EEZ, as required by U.S. law.

The HOKO MARU NO. 31 had a Soviet permit and a Soviet observer on board; it fled into the Soviet EEZ. A Coast Guard cutter on scene pursued the vessel (under the principle of "hot pursuit") until directed to break off pursuit. HOKO MARU NO. 31 returned to the U.S. EEZ once again, and then fled into the Soviet EEZ once more and refused to return.

DOS negotiated with the Government of Japan (GOJ) to have the vessel return to the U.S. EEZ and submit to a boarding. The GOJ agreed to this action under the condition that the U.S. would not seize the vessel. The vessel was eventually boarded in the U.S. EEZ under that condition.

Upon boarding the vessel, the boarding officer issued the HOKO MARU NO. 31 a Report of Violation. A copy of the Report of Violation and case package were submitted to NMFS for processing.

At the time of HOKO MARU NO. 31 incident, a 75,000 metric ton allocation was ready for release to the Japanese; the Coast Guard recommended withholding the allocation; DOS refused. The Coast Guard suggested to NMFS that the tanner crab caught by HOKO MARU NO. 31 be counted against incidental catch allocations; NMFS advised that was not legally possible.

On April 16, 1987, two Soviet trawlers were sighted in the Bering Sea, 12 nautical miles east of the Soviet claimed boundary to the US/USSR disputed zone--which clearly placed them within the U.S. EEZ. One vessel, OZYORNE KLYUCHI (ESCE), was positively identified from photographs of the incident; evidence was not conclusive on the identity of the second vessel. DOS filed a diplomatic protest. The Government of the Soviet Union later confirmed that these two vessels had each committed a violation. In both cases, the Government of the Soviet Union suspended the master's license for five years.

On May 11, 1987, four unidentified foreign fishing vessels were sighted by a helicopter which was deployed from a Coast Guard cutter. The vessels had covered their identifying markings and were trawling in the U.S. EEZ, north of the area known as the "donut hole" in the Bering Sea. The cutter on patrol was unable to relocate the vessels (detected by the helicopter) and thus was unable to conduct boardings. Because the nationality of the vessels could not be determined, DOS was unable to file a diplomatic protest with the vessels' flag state.

On May 15, 1987, eight Soviet vessels were sighted in the Bering Sea, east of the Soviet claimed boundary of the US/USSR disputed zone. Of these eight vessels, three of them appeared to be in transit. The remaining five appeared to be involved with support operations--which is considered fishing under U.S. law. More specifically, four Soviet vessels were "rafted" together with their hatches open and booms rigged, while the fifth vessel was observed with fish in bins on deck. These five vessels had been fishing as far as 1.5 nautical miles to 4.7 nautical miles east of the Soviet claimed line--clearly within the U.S. EEZ and our jurisdiction. DOS filed a diplomatic protest with respect to all eight vessels.

The Government of the Soviet Union responded by conducting an investigation of the alleged violations. The Soviet's preliminary report on the incident stated that three of the vessels involved in the incident were determined to be innocent (one of these vessels had been a research vessel). Finally, the investigation had been unable to determine the guilt or innocence of the remaining five vessels. The investigation into these remaining vessels continues; DOS has not received any further reports from the Soviets.

QUESTION: DUE TO BUDGET REDUCTIONS YOUR ALASKAN CUTTER PATROL DAYS WILL BE REDUCED BY 54%, AND AIRCRAFT PATROL HOURS BY 55% FOR THE REMAINDER OF THE YEAR. IS THERE ANY MECHANISM THAT YOU ENVISION FOR POSSIBLY USING PRIVATE INDUSTRY TO AID IN ENFORCEMENT? ARE THERE ANY RESOURCES THAT THE STATES OF ALASKA AND WASHINGTON HAVE THAT WOULD POSSIBLY AID IN YOUR SURVEILLANCE AND ENFORCEMENT EFFORTS?

Answer: The resources of the states of Alaska and Washington are limited in quantity and limited in range. These resources are incapable of reaching the "donut hole" in the Bering Sea, let alone operating there safely. In comparison, the use of private industry in aiding enforcement looks more promising.

One possible mechanism may be the use of an evidence reporting guide. An evidence reporting guide would be useful since U.S. fishermen are in an excellent position to gather information on violations of fisheries laws by both foreign and domestic fishermen. The Coast Guard is willing to work with the National Marine Fisheries Service to develop such a guide.

QUESTION: YOU STATE THAT YOU HAVE READ "PUBLISHED REPORTS THAT THERE ARE NO POLLCCK IN THE "DOUGHNUT HOLE," YET YOUR STATEMENT WENT ON TO STATE THAT YOU HAVE NO EVIDENCE THAT SUPPORTS THIS THEORY. WHILE I REALIZE THAT NOT ENOUGH IS KNOWN ABOUT THE FISH STOCKS IN THAT REGION, I AM INTERESTED TO KNOW MORE ABOUT THESE "PUBLISHED REPORTS" AND WHY THEY ARE NOT CONSIDERED TO BE MORE CREDIBLE AND WORTH LOOKING INTO CAREFULLY?

Answer: The published reports referred to in previous testimony are from newspaper accounts. These reports contend that recent sightings of vessels fishing illegally prove there are no fish in the "donut hole." Our cutters and aircraft have witnessed fishing operations and have observed large haulbacks by foreign vessels operating in the "donut hole" area. These sightings indicate that at certain times of the year there are pollock in the "donut hole" in commercial quantities. Our sightings do not indicate the size of this stock or give any indication how much damage such fishing may be doing to the resource. Foreign fishermen do fish in the "donut hole"; it is not just a staging area for poaching in the U.S. Exclusive Economic Zone (EEZ). This fact should not be forgotten as we develop an approach for managing pollock in the Central Bering Sea.

QUESTION: THE FISHING INDUSTRY HAS SUGGESTED THAT PERHAPS REGULATIONS COULD BE FORMULATED REQUIRING THAT FOREIGN VESSELS WITH FISHING EQUIPMENT PLACE THEIR EQUIPMENT BELOW DECK IF THEY ARE ENTERING THE U.S. EEZ. WHAT EQUIPMENT WOULD NEED TO BE PLACED BELOW DECK AND HOW EASILY IS THE EQUIPMENT REMOVED OR REPLACED? IF SUCH AN IDEA WERE IMPLEMENTED WOULD THIS AID THE COAST GUARD'S ENFORCEMENT EFFORTS?

Answer: A regulation to prohibit foreign vessels from entering the U.S. EEZ with fishing equipment on deck might aid Coast Guard enforcement efforts. Our patrol units would presume that any foreign fishing vessel in our zone with its fishing equipment on deck was fishing. This may make it easier to determine whether a foreign vessel was fishing within our zone and subject to U.S. fisheries laws, or transiting our zone in accordance with high seas freedom of navigation.

The key to the effectiveness of this regulation is how quickly and easily a vessel can strike its fishing equipment below deck. The real issue, however, is how quickly can a vessel catch fish if it is going to poach? Vessels with trawl nets can catch fish in a few hours; vessels with longlines, driftnets, and trap/pots typically take longer to catch fish due to the longer soak time needed when using fixed gear. Because of this difference between gear types, foreign vessels using trawl nets may be more difficult to catch in the act of fishing than vessels using fixed gear. In light of this, it would be appropriate to require all trawl nets and doors to be stored below deck when foreign vessels enter the U.S. EEZ. It is less clear whether vessels using fixed gear should also meet this requirement.

One other issue that must be addressed is whether this requirement can be imposed on fishing vessels that are merely transiting the EEZ. This may conflict with international legal principles. The effect of such a precedent on other U.S. interests must be carefully considered.

Senator ADAMS. Thank you very much, Admiral. Prior to questioning, we will proceed with the other members of the panel, and then we will question the entire panel.

Ambassador Wolfe.

STATEMENT OF AMBASSADOR EDWARD E. WOLFE, DEPUTY ASSISTANT SECRETARY FOR OCEANS AND FISHERIES, BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, DEPARTMENT OF STATE

Ambassador WOLFE. Thank you, Mr. Chairman, Senator Stevens and Senator Evans.

For the record, I am Ed Wolfe, Deputy Assistant Secretary of State for Oceans and Fisheries.

It is a pleasure to be here to give the Department of State's comments on foreign fishing activities in the high seas waters of the Bering Sea, more commonly known as the donut.

We are very concerned over the potential impact of these fisheries on the conservation of adjacent stocks in our U.S. zone. In this regard we are developing an interagency position to address this serious concern in future talks with foreign countries. The interagency group, consisting of representatives from the Departments of State, Commerce, Defense, Transportation and Justice, is considering all international legal and policy issues raised by Bering Sea donut fisheries in preparation for future negotiations.

As the committee is aware, during our recent bilateral talks in Moscow from January 26 through 28, we formed a U.S.-U.S.S.R. bilateral task force on the Bering Sea. The first meeting is tentatively scheduled for late March/early April, at which time we will consider the legal, scientific and enforcement aspects of the Bering Sea issues.

We are also involved in addressing the immediate problems raised by the apparent illegal fishing by several Japanese vessels in our zone just south of the donut area.

The Bering Sea high seas fisheries are a relatively recent phenomenon created by the diversion of foreign fishing effort from the U.S. EEZ to the high seas regions of the Bering Sea. In recent years, allocations to foreign countries of surplus fish from the U.S. EEZ has decreased dramatically. This decrease was the natural result of the U.S. fishing industry's expansion to the point that it can now harvest nearly all of the available fishery resource in U.S. waters off Alaska.

In response to the decline in allocations, fishing vessels from Japan, Korea, Poland, and China have sharply increased their activities in the high seas region. Harvests by these vessels rose from around 200,000 metric tons [mt] in 1984 to over 1 million mt in 1987. Because of the interrelationship of fish stocks in the Bering Sea, this vast unregulated harvest may have a serious adverse impact on the status of fish stocks in the adjacent U.S. EEZ.

As you know, Mr. Chairman, there have been allegations of this illegal fishing, fishing that may be taking place in our zone, our EEZ, near the Bering Sea high seas area. We believe there are now questions regarding the extent to which fish reported as having been harvested in the Bering Sea high seas may actually have been

caught from U.S. waters. This is obviously of great concern to the Department and, I know, the committee.

Since we all agree that it is imperative that the United States take measures to protect the fisheries of the Bering Sea, we are taking actions to address both the long-term problems associated with these high seas fisheries and the immediate problem of the alleged illegal activity in our own zone. Let me briefly review these two areas.

First, there is the question of long-term international fisheries interest in the central Bering Sea donut area. Since fisheries stocks, as we know, in the Bering Sea are interrelated, we believe it is important that the Soviet Union, as you pointed out, Mr. Chairman, the other country whose zone borders the donut area, be involved in any efforts to address this concern. The main species harvested in the high seas area, pollock, is found throughout the Bering Sea and is a major stock in both the United States and Soviet zones. United States and Soviet origin salmon may also be intercepted in the donut area fisheries. Without a coordinated exchange of information between the two countries bordering the high seas region, we believe it would be difficult to develop adequate means to provide for the conservation of stocks in the U.S. EEZ.

As I mentioned earlier in my statement, during our recent negotiations in Moscow on access for the United States industry to the Soviet zone, we formed a U.S.-U.S.S.R. bilateral working group to consider the legal, scientific and enforcement aspects of the Bering Sea. We anticipate this meeting will provide an opportunity to improve our understanding of the conservation problems we face in the Bering Sea high seas region.

I would point out that the formation of this United States-Soviet working group is an unprecedented form of cooperation between our two countries, particularly on oceans issues. In light of the mutual interest of both sides on conservation issues, we are optimistic that we can improve the bilateral dialogue on fisheries. There are already signs of improved fisheries relations. For instance, on February 21, Secretary Shultz and Foreign Minister Shevardnadze signed in Moscow an interim fisheries agreement allowing access for our United States fleet to the Soviet zone. I would point out for the committee's information that once we have this interim agreement in operation, we will most probably begin comprehensive, long-term negotiations with the Soviets for a comprehensive fisheries relationship.

In order to develop an Administration position for the first United States-Soviet bilateral working group and to respond to the many congressional proposals for possible United States initiatives with regard to illegal foreign fishing in our zone, we have initiated with the agencies I mentioned earlier in my testimony an interagency consultative group. This group is currently considering all available options for addressing issues associated with the Bering Sea fisheries.

I would point out that these options include unilateral, bilateral, multilateral mechanisms available under both domestic and international law to deal with third country fisheries in the high seas

region. I would be happy to respond to questions at the appropriate time to these particular options, to the extent possible.

To be certain, the Bering Sea donut issue raises new and complex problems regarding U.S. policy towards conservation of high seas fisheries. While the United States must take all possible action to protect the fisheries resources in its own zone, I would submit to you that we must be careful to insure that legitimate high seas rights, such as freedom of navigation, are not impaired as a result of our activities on this one issue. Our interagency group meeting now will certainly balance U.S. interests while effectively addressing the donut issue.

One of the major, and I think more important, issues that the interagency group is addressing is the legal basis for U.S. action in the Bering Sea donut area. It is the Department of State's position—that's not my five minute rule, I am sure.

Senator ADAMS. We hope it isn't one for us either, but it sounds like it is.

Ambassador WOLFE. I have a minute or two left, if that's possible.

It's the Department's position that customary international law provides more than one basis to support the rights and duties of coastal and harvesting nations in the Bering Sea donut area. To be certain, there are different congressional proposals on both sides of the aisle.

Nevertheless—and a very important point, if I could make it—it is clear that harvesting countries do not have any international right to expand their high seas fishing activities to the detriment of the rights and interests of the United States or other coastal states. Therefore, our interagency group is considering all legal options available to protect U.S. fisheries resources.

Second, with regard to apparent illegal foreign fishing in our zone in the vicinity of the donut, I would like to offer the following comments. We support proposals to take strict actions to prevent and prosecute illegal foreign fishing, support Commerce's administrative remedies, such as inspection of foreign vessels, denial of permits for vessels found in violation, et cetera.

I would also say that I personally—not only personally, I will speak on behalf of the Department of State—we applaud Coast Guard efforts to prevent illegal fishing in U.S. waters operating, as we all know, under extremely severe budgetary constraints. I think they are doing an excellent job with the resources they have.

With regard to the specific case of the most recent alleged Japanese violation, we have actively communicated with the government of Japan the need for immediate action to conclude an investigation. I have included in my testimony a chronology of our actions, Department of State actions, in addition to government of Japan responses, with regard to the alleged illegal activities.

Unfortunately, despite our efforts to prompt immediate action for this incident, we have not received a final report from Japan. We discussed this issue once again with the government of Japan yesterday. I am told that with regard, to the alleged violation in our zone, we should be hearing from the Japanese the latter part of this week, and we will report to the committee as soon as they do that.

Senator ADAMS. We would appreciate a written statement on that, Ambassador Wolfe, so that we can include it in our record.

Ambassador WOLFE. The Japanese——

Senator ADAMS. Yes.

Ambassador WOLFE. Most certainly, Mr. Chairman.

Senator ADAMS. Thank you.

Ambassador WOLFE. That concludes my statement. I am sure there are plenty of questions, but before I close, let me just thank you, Mr. Chairman, and thank the rest of the committee for convening this hearing. I think it is timely and important. I read recently something that Senator Stevens put in print. We need to send a clear message that the United States will not tolerate illegal fishing in our waters or over-fishing in the donut. That potentially could endanger our fish stocks. I think this forum that you have convened today is the right forum to provide that message. Obviously, looking around, there is quite a bit of interest. We need to work together—both branches of government—forge ahead with concerted actions to address those concerns, and I am confident we can do that together and we are moving in the right direction.

Thank you.

[The statement follows:]

SUMMARY OF THE DEPARTMENT OF STATE'S ACTIONS REGARDING THE APPARENT ILLEGAL FISHING BY VESSELS FROM JAPAN

On January 13 and 14, U.S. industry representatives reported sighting up to seven foreign fishing vessels conducting unauthorized fishing within the U.S. EEZ in the Bering Sea. Immediately upon learning of these sightings, the Department contacted the Embassy of Japan on January 15 stressing our serious concern and our determination to fully investigate the matter. On January 21, the Department again called in representatives of the Japanese Embassy to propose that Japan grant us permission for the U.S. Coast Guard to board and inspect the vessels which had been previously sighted in the U.S. EEZ if they were found during a U.S. Coast Guard patrol outside the U.S. zone. Subsequently, the Japanese refused permission for U.S. boardings on the subject vessels if the vessels were found beyond the U.S. EEZ.

On January 29, the Japanese Embassy provided us with the following preliminary report:

It had dispatched a patrol vessel, the KONAN MARU No. 27, to the central Bering Sea in an effort to prevent illegal fishing in the U.S. EEZ.

Two vessels the KORYO MARU No. 52 and the TAISEI MARU No. 21, has returned to Japan. The masters and captains of both vessels were called to Tokyo for an interrogation but denied that they had fished illegally. Their logs contained no record of any illegal fishing activities.

On Janurary 27, the Japanese patrol vessel boarded the EIKYU MARU No. 6 and the EIKYU MARU No. 81 in the dounut area. The EIKYU MARU No. 6 was found not to have an indentification number on its side and was ordered back to port in Japan. The inmvestigation on the EIKYU MARU No. 81 is continuing.

Japan will issue administrative guidance to all vessels and the relevant fisheries associations fishing in the donut.

Japan instructed all its trawling ships fishing in the Bering Sea voluntarily carry NAVSAT equipment.

As of August, 1988, Japan will require as a prerequisite for renewal of permits that all vessels fishing in the donut carry NAVSAT equipment.

Japan requested all available evidentiary documents for use in continuing their investingation. We have provided this information, including an unedited copy of the original video tape, and are currently awaiting the final report from Japan. Although we have urged that this process be completed at the earliest pssible date, and have reiterated our concerns over this incident on several occasions with senior Japanese officials, a final report from Japan has not been forthcoming to date.

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR STEVENS AND THE ANSWERS THERETO

Question. You note on page 4 that U.S. and Soviet-origin salmon "may" be intercepted in the donut fisheries. We're sure they are, and we're concerned about it, as you'll hear from Alaskans later this morning.

The Japanese recognize our jurisdiction over salmon on the high seas. Why can't we demand observers, at least, to monitor the catch out there, and assert our jurisdiction to protet our salmon when we find them being caught?

Answer. In general, the United States has attempted to place observers on foreign fishing vessels which may intercept U.S.-origin salmon. The United States has for years placed observers on Japanese vessels fising for salmon under the INPFC treaty. Because of concerns over possible salmon interceptions in high-seas squid fisheries, we initiated negotiations last year with all countries conducting such fisheries designed to, among other things, provide for observer coverage of high-seas squid driftnet fisheries. On April 11, the National Marine Fisheries Service (NMFS) reached an agreement with the Fisheries Agency of Japan (FAJ) to place U.S. and Japanese observers on Japanese squid driftnet vessels in order to monitor incidental takes of marine mammals, salmon, seabirds, and other living marine resources.

We believe it would be useful to place observers on vessels operating in the Bering sea "donut" fisheries for pollock. Poland and China have aready voluntarily offered to accept observers on some vessels from the "donut" fishery. We understand the NMFS has recently placed several observers on Polish and Chinese vessels. The Department would be willing to assist in attempts to reach agreement on placing observers on "donut" vessels from other countries.

Question. Would the Department of State consider requiring that foreign trawlers without a permit to fish in our zone stow fishing gear below deck when they are in transit within our zone?

Answer. The concept of a gear storage requirement has been brought to the Department's attention only recently. We intend to study this matter in future meetings of the Interagency Group on the Bering Sea, including the legal aspects of this issue and feasibility and effectiveness of this enforcement measure.

Question. What penalties will be imposed by the Japanese when and if they agree that their vessels were fising illegally in our zone? Do you believe that the penalties are sufficiently severe to serve as a deterrent?

Answer. I regret to note that we have not yet received a final report from the Government of Japan on the Japanese vessels sighted in the U.S. EEZ. The Department intends to continue to press for a prompt and effective response from Japah to this serious incident. In the meantime, we cannot comment on what penalties the Government of Japan might impose for vessels it determines were fishing illegally.

Question. What other states and seas face a similar "doughnut" international waters situation, due to the extension of economic zones? Do these similar situations face problems of poaching? What is the fishery resource and how is it managed in these other instances, both inside and outside the international water "doughnut" area?

Answer. To the best of our knowledge, the following are all the high seas areas which, like the Bering Sea "doughnut", are surrounded entirely by the 200 miles zones of one or more states:

South Pacific Ocean and Adjacent Seas: In the South Pacific Ocean and its adjacent seas there are a number of "doughnut" areas in which the main commercially exploitable species are highly migratory tuna. A few of these areas are heavily fished by U.S. tuna fishermen. The South Pacific "doughnut" areas are not part of any convervation regime but are included in a broad regional licensing agreement recently sighed by the United States and 15 Pacific Island countries. The situation is different from that in the Bering Sea because the tuna resources in the South Pacific are general considered to be underutilized.

Gulf of Mexico: There are two areas beyond 200 miles of the United States and Mexico in the central Gulf of Mexico and between the United States, Mexico, and Cuba in the eastern Gulf of Mexico. However, to the best of our knowledge the exploitable resources in the area are negligible, and we are aware of no management problems which have resulted from fishing activities in these regions.

Norwegian and Barents Seas: There are two "doughnut" areas in the Norwegian and Barents Seas surrounded by the economic zones of Norway, the Soviet Union, and Iceland. It is our understanding that fishing in this region, primarily for

groundfish, is regulated by agreements between the harvesting and coastal countries. These agreements are apparently linked in practice to the related issue of access to the economic zones of the coastal countries.

Sea of Okhotsk: There exists a "doughnut" in the Sea of Okhotsk which is surrounded entirely by the Soviet economic zone. We are not aware of the specific circumstances surrounding access by other parties to this region and what conservation measures have been taken.

Senator ADAMS. Thank you, Ambassador Wolfe, very much for you excellent testimony.

Mr. Douglas.

STATEMENT OF JAMES E. DOUGLAS, JR., DEPUTY ASSISTANT ADMINISTRATOR FOR FISHERIES, NOAA, DEPARTMENT OF COMMERCE; ACCOMPANIED BY DR. WILLIAM ARON, DIRECTOR OF SCIENCE AND RESEARCH, ALASKA REGION; AND MORRIS PALLOZZI, CHIEF ENFORCEMENT OFFICER

Mr. DOUGLAS. Thank you, Mr. Chairman. I am James Douglas, Jr., and I am the Deputy Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration of the Department of Commerce.

I have with me on my left today Dr. Bill Aron who is our Director of Science and Research for Alaska. The Chair mentioned Mr. Morris Pallozzi. He is behind me if we need to call him as are other members of my staff. But I have only brought Dr. Aron to the table with me.

My written testimony is before you, but I think I can summarize its salient points very rapidly for the committee.

Senator ADAMS. Without objection, your full statement will be included in the record, Mr. Douglas.

Mr. DOUGLAS. Thank you.

NOAA certainly shares the concern of the industry and the Congress that such wholesale poaching was discovered in the Bering Sea, and I want to congratulate those persons who discovered this. They are to be commended for their initiative. And NOAA, with the help of the Coast Guard, has acted quickly to interview the industry persons engaged in this discovery, and based on their testimony, has issued notices of violation and assessment to four identified Japanese vessels representing three different companies.

Maximum penalties are being assessed and five-year permit sanctions are being proposed against all vessels from the offending companies. To the best of our knowledge, this would involve a total of 15 vessels.

NOAA also sent an aircraft to the area to give immediate additional aerial surveillance. Unfortunately, due to other commitments, we are unable to keep this plane on station. However, we are seeking added surveillance with both Navy and Air Force flights, on a not-to-interfere basis as they may be available.

NOAA is also considering other measures, many of which have been mentioned in the opening statements of the various Senators, that might give us some degree of added control over foreign vessel activity in our EEZ and added data from foreign fishing in the donut hole. We have been in consultation, as Ambassador Wolfe has said, with the Department of State, Department of Transportation, Department of Defense on these proposals. We expect soon to

publish an advanced notice of proposed rulemaking that will invite comments on the appropriateness and effectiveness of all these options.

I want to note that we share Senator Stevens' thoughts in that we specifically asked the industry to join us in commenting on those proposals and give us their ideas as to what might be appropriate and effective.

However, none of these proposals appear to be a panacea. We can perhaps gain greater control over vessels entering our EEZ, what they can do while they are in the EEZ, and information on what they catch in the donut hole if they have entered from our EEZ. But we cannot unilaterally exert influence on those vessels that enter via the Soviet side of the donut.

Perhaps the most important aspect of this matter is our belief that the Bering Sea, including the donut hole, is most likely one ecosystem. If that is true, then fish removals from that area may affect fish abundance in other areas. I sincerely hope that the committee asks us questions concerning this because I have beside me one of the best scientists anywhere who can discuss this with you, and I think you will be very, very interested in hearing comments from Dr. Aron.

I would also add at this point, Mr. Chairman, we have a written summary of current knowledge and working hypothesis concerning pollock in the Bering Sea. It is not a part of my testimony, but it is available at the committee's request.

Senator ADAMS. Mr. Douglas, the committee would like to request that formally at this time so that it will be part of our record by reference. So, I make that request on behalf of the committee.

Mr. DOUGLAS. We will be glad to do that.

[The material referred to is in the committee files.]

Mr. DOUGLAS. I would suggest to the committee, if you have time, you could gain a lot more by talking to Dr. Aron about it.

Senator ADAMS. We'll do that also.

Mr. DOUGLAS. To date, the North Pacific Fishery Management Council has been appropriately conservative in our opinion in their management of the pollock stock, which is of course the species of major concern here.

But the bottom line is, Mr. Chairman, we don't want the U.S. fisherman to have to bear the full brunt of conservation. With the assistance of the Department of State, NOAA is seeking ways to address conservation in the entire Bering Sea area. As Ambassador Wolfe said, we will begin with discussions with the Soviet Union later this month or in early April. In the final analysis, in my opinion, this seems the best long-term solution to our goal of maintaining a healthy and robust pollock stock.

Mr. Chairman, that concludes my oral statement, and we certainly will be happy to answer any questions the committee has as best we can.

[The statement follows:]

STATEMENT OF JAMES E. DOUGLAS, JR., DEPUTY ASSISTANT ADMINISTRATOR FOR FISHERIES, NOAA

Mr. Chairman and Members of the Subcommittee. My name is James E. Douglas, Jr. I am the Deputy Assistant Administrator for Fisheries of the National Oceanic

and Atmospheric Administration, (NOAA) U.S. Department of Commerce. I am accompanied today by Dr. William Aron, the Director of Science and Research for Alaska.

At your request we are here to address the problems presented by foreign fishing vessels operating in the central portion of the Bering Sea—the so-called "donut hole"—which is beyond the 200-mile zones of the United States and the Soviet Union. Recent evidence suggests that some foreign vessels are using the "donut hole" to stage illegal fishing operations within our exclusive economic zone (EEZ). Moreover, it now appears that the amount of fishing occurring within, or falsely reported as having occurred within, the "donut hole" ultimately may affect the amount of fish that can be safely harvested by developing U.S. fisheries in our EEZ.

The Bering Sea is the world's most productive fishing ground. As the map that stands before you illustrates, the richest waters—the shallower areas closer to shore—lie entirely within the United States' EEZ and the Soviet economic zone. These areas within our EEZ support a wide variety of fish and shellfish resources that, I am pleased to report, are now primarily harvested by U.S. fishermen as Congress intended when it enacted the 1976 Magnuson Fishery Conservation and Management Act. In our EEZ off Alaska, the phase-out of directed foreign fishing is virtually complete.

With the Magnuson Act's success, foreign vessels have been forced to relocate their fishing activities. Some have moved to the much deeper waters of the "donut hole", which overlies part of the Aleutian Basin. Although these waters are not as productive as the shallower areas closer to shore, they are probably part of a large Bering Sea ecosystem. There seems to be times of the year when significant amounts of fish can be taken within the "donut hole". The species taken most easily is Alaska pollock when they form large spawning aggregations.

I emphasize that the donut hole fishery for pollock is new, but very rapidly expanding, with vessels from Japan, the Republic of Korea, Poland, and the People's Republic of China. Since 1980, in the absence of limits, foreign catch reports attributed to the "donut hole" have nearly doubled each year—from only 15,000 metric tons in 1980 to nearly a million metric tons of pollock in 1986. While we cannot estimate the size of the total pollock resource in the Bering Sea ecosystem, we must view the rapidly escalating foreign effort with considerable trepidation. Since most of the Bering Sea is probably a single ecosystem, any significant level of fishing in the "donut hole" may reduce the amount of fish that can safely be taken elsewhere within that ecosystem. Thus, the United States shares a common fisheries interest with other nations in seeing that sound conservation measures are implemented for that part of the Bering Sea beyond our 200-mile limit.

Another serious concern, at least for the United States, is that some of the most productive areas of our continental shelf are quite close to the 200-mile limit. One of these areas—Bowers Ridge—is where as many as seven Japanese medium-sized sterm trawlers were observed illegally fishing on January 13, 1988. NOAA has issued Notices of Violation and Assessment to four identified and two unidentified vessels for fishing without a permit and against two unidentified vessels for concealing their numbers. NOAA has also proposed permit sanctions against all vessels owned by the Japanese companies whose vessels were identified. We have every reason to believe that these Japanese vessles used, or intended to use, the "donut hole" as a sanctuary for evading U.S. enforcement efforts.

I am pleased to report that NOAA, in cooperation with several other agencies is addressing both the short and the long-term consequences of the rapidly expanding foreign fisheries in the "donut hole."

First, we dispatched a NOAA P-3 Orion aircraft to Adak to assist the Coast Guard in its aerial surveillance program. During our first five flights between February 10 and 19, we detected six Polish vessels fishing very close to the boundary inside our EEZ. Those cases will be presented to the NOAA General Counsel for possible prosecution. This was only a temporary measure, however, since the NOAA aircraft has other assignments. We are, therefore, exploring increased use of military aircraft and satellite communication technology to enforce the 200-mile limit when weather and mission requirements permit.

Second, we are considering a variety of new regulations to place more restrictions on foreign fishing vessel operations within our EEZ. Some of the vessels operating in the "donut hole" may have been supported by vessels operating in our EEZ. Present regulations do not require a permit for transfers of fish and supplies within the EEZ if the fish involved were taken beyond the EEZ. We propose to fix that by emergency regulation as soon as interagency discussions have been completed. We also plan to publish an advanced notice of proposed rulemaking (ANPR), again, as soon as interagency discussions can be completed. Some of the suggestions to be ad-

dressed in the ANPR include new requirements for foreign fish processing vessels and foreign fishery support vessels to submit to in-port inspection and to carry U.S. fishery observers into the "donut hole" if they also intend to conduct operations within the EEZ which they still commonly do in joint vetnure. Another is to allow fishery support only if the fish are harvested within the EEZ.

Third, our researchers have begun a careful examination of the problems posed by the expanding "donut hole" fishery in order to provide better information to the North Pacific Fishery Management Council. We have several hypotheses on the relationship between pollock found in the Aleutian Basin and pollock found elsewhere in the Bering Sea. While much more data needs to be gathered, we believe the least likely scenario is that there is a separate stock of pollock in that area as has been suggested by the Japanese. Instead, it seems more likely that the fish in the "donut hole" are part of a larger population which inhabits most of the Bering Sea. There may also be a second pollock stock in the extreme western part of the Soviet economic zone. The NOAA ship MILLER FREEMAN has just completed a research cruise across the Aleutian Basin and found very little pollock in the "donut hole" and none in harvestable quantities at this time of the year.

Fourth, NOAA, the State department and the Coast Guard will meet with Soviet fisheries officials here in Washington in late March or early April specifically to consider how to deal with the alarming expansion of third party fishing in the "donut hole." At these talks, everything will be "on the table", from data needs, to improved enforcement, to potential conservation regimes for fishing in the "donut hole".

In closing, I leave you with a sobering thought. As a biological matter, we believe that fishing cannot continue to increase indefinitely in any part of the Bering Sea without adversely affecting fishing elsewhere in that ecosystem. We do not want to arrive at that point where U.S. fishermen must bear the entire burden of conservation because of uncontrolled foreign fishing in the "donut hole".

Thank you very much. We'll be pleased to answer any questions you may have, and if we do not have the answer readily at hand we will provide it for the record.

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR STEVENS AND THE ANSWERS THERETO

QUESTION 1:

The driftnet legislation enacted last year calls upon the Secretary of Commerce, in consultation with other agencies, to pursue agreements with Japan and others for cooperative enforcement. Those agreements are supposed to include measures for collection of evidence sufficient for successful prosecution in the flag nation. Clearly, they would serve to enforce and prosecute driftnet vessels and trawlers that violate our 200-mile limit.

What are your plans and schedule for developing the U.S. position and commencing negotiations of such agreements?

ANSWER: On March 29, 1988, Secretary Verity wrote to Secretary of State Shultz and Secretary of Transportation Burnley requesting interagency consultative mechanisms with respect to the Administration's statutory responsibilities under the "Driftnet Impact Monitoring, Assessment and Control Act of 1987." The letter to Secretary Shultz also requested that he initiate immediately negotiations with those countries that conduct driftnet fisheries in the North Pacific Ocean for the purpose of entering into arrangements to address the monitoring and enforcement aspects of the Driftnet Act.

Even before that letter was sent, however, NOAA/NMFS, Department of State (DOS), and U.S. Coast Guard (USCG) representatives were working closely together to develop U.S. positions regarding driftnet fishery enforcement criteria to be used in consultations with those driftnet fishing countries.

A U.S. interagency delegation met with Japanese representatives during the week of April 4 for consultations regarding the monitoring and enforcement criteria in the Driftnet Act. Although some progress was made regarding U.S./Japan cooperative monitoring of the high seas squid driftnet fishery during 1988, the Japanese side indicated that it was not in a position to address the enforcement aspects of the Driftnet Act at this time.

The U.S. delegation raised the possibility of a meeting of enforcement experts from both sides to examine ways in which they could coordinate their respective enforcement activities for the mutual benefit of both Governments. Specifically, the U.S. side indicated that it wished to devise means whereby U.S. enforcement information could be utilized by the Government of Japan in prosecuting violations of Japanese domestic regulations.

The Japanese side agreed that such a meeting could be useful and also agreed to U.S. requests that the meeting address broader enforcement issues beyond those pertaining to driftnet fisheries. We are supporting Department of State efforts to hold such a meeting at an early date. In addition, we anticipate that in the near future the DOS will be contacting representatives of the Government of the Republic of Korea and, through the American Institute in Taiwan, the authorities on Taiwan to discuss cooperative monitoring and enforcement aspects of the Driftnet Act. We intend to coordinate and consult closely with both DOS and USCG officials in the U.S. representations that are to be made to those countries.

QUESTION 2:

You mention on page 2 of your statement that the species taken most easily in the donut hole are spawning aggregations of pollock.

Even if they aren't the same fish that we're trying to conserve in our zone, isn't the time when they are in large aggregations to spawn precisely when they shouldn't be harvested?

Doesn't the fact they are harvested when spawning add to the potentially devastating impact of the fishery out there?

ANSWER: No. Harvesting on aggregations of spawning fish can be a biologically safe practice if the amount is properly managed. We have the same practice in our EEZ as well. Examples are our pollock fisheries in Shelikof Straits in the Gulf of Alaska and that over Bogaslof Island in the eastern Bering Sea.

Catching spawning aggregations of pollock as opposed to earlier or later times does not change the amount of biomass being removed from the stock. If harvest is delayed until after spawning, potential spawners for the subsequent year are still being removed. It's either taking the fish this year or next year. Harvesting at any time removes potential spawners from the stock.

An associated potential problem is effect on future recruitment. Harvesting of spawners reduces eggs during the current year. However, over the long-term, the timing of the harvest should not affect stock. Recruitment is dependent on the strength of the spawner-recruit relationship. If a strong relationship exists, a reduction of spawning biomass could result in lower future recruitment. Although a relationship has been estimated for eastern Bering Sea pollock, it is still unclear if recruitment is essentially random at some levels of stock biomass or determined largely by environmental effects. It is believed, however, that the current level of pollock spawning biomass in the eastern Bering Sea is relatively high and that recruitment is not being adversely affected by current harvest levels.

Harvesting on spawning aggregations early in the year could also potentially affect the growth of pollock. We estimated that an additional 16% gain in biological yield may be achieved from the stock the same year if the fishery is conducted year-round instead of taking all the total allowable catch early in the year from spawning aggregations. The additional yield is gain from growth as more fish are allowed to grow through spring and summer from not being caught early. Here is a question on whether the fish should be harvested for flesh or roe. Catch rates are higher during spawning aggregations and roe is valuable, thus providing good financial return to fishermen. One may argue that roe may just be the "best" economic use of the resource.

QUESTION 3:

You say on page 3 that NOAA has issued Notices of Violation and Assessment (NOVA's) to 4 identified and 4 unidentified vessels. What is the significance of the NOVA's? What will happen now? Do you expect to prosecute any of them successfully?

ANSWER: The NOVA is the agency's charging document. It specifies the statutory provision violated, states the factual basis for the violation, and assesses the civil penalty. If the respondent does not request a hearing, the penalty becomes final. If the respondent does submit a request, a hearing is held before an administrative law judge.

Since the NOVA's were issued, one of the two unidentified vessels has been identified as the EIKYU MARU NO. 5, owned by Hamaya Suisan. Attorneys for the three companies owning the identified vessels have submitted hearing requests, but there is a good possibility the cases will be resolved without going to hearing.

The penalty of $50,000 assessed against the remaining unidentified vessel has become final. We expect the Government of Japan to honor the terms of the GIFA by assisting us in identifying the offending vessel and ensuring that the owner pays the penalty.

If the cases do go to hearing, we expect to prosecute them successfully. The videotapes, together with the testimony of the experienced witnesses, establish that the vessels were engaged in harvesting activities well inside the exclusive economic zone. The State Department has asked the Government of Japan for its investigative files (logs and interviews) that will assist us in any prosecution.

QUESTION 4:

What are you doing to "explore" increased use of satellite communication technology and other "high tech" approaches? Would you be willing to participate in a task force for this purpose?

ANSWER: Over the past several years, we have examined the possibility of using satellite systems to improve our monitoring of foreign fishing vessels. Tests run or monitored by the Coast Guard of such systems revealed several technical problems which make the systems unsuitable for our purposes. All systems tested would provide position data only, and could not tell us if vessels were engaged in illegal fishing. In addition, U.S. Ambassador Ed Wolfe has stated that under the language of the present Governing International Fisheries Agreements, transponders could not be put on vessels merely transiting the EEZ. We remain interested in systems which would give us remote monitoring capabilities and would be most willing to participate in a task force on this subject.

QUESTION 5:

Would you consider requiring that any foreign trawler without a permit to fish in our zone stow its fishing gear below deck when it is in transit within our zone?

ANSWER: Yes, we will consider this suggestion in the context of the Advance Notice of Proposed Rulemaking published April 25. Canadian regulations contain a similar requirement for foreign vessels crossing that zone. We would have to tailor the provision to the type of vessel. A vessel might not be able to stow all gear (trawl doors) below decks, but could be required to render the gear temporarily incapable of fishing.

QUESTION 6:

You say on page 5 that "it seems more likely" that the pollock in the donut hole and those in our zone are parts of one population. How much time and money will NOAA need to confirm or deny that hypothesis? If it's going to take a while, isn't the most appropriate course, from a sound fishery management standpoint, to stop fishing until we know for sure?

ANSWER: Research being conducted in FY 88 includes hydro-acoustic and trawl surveys in the Bering Sea, biological analyses of pollock samples, and oceanographic studies in the donut hole. Further research is planned in FY 89 and FY 90.

Data do not show that pollock on the eastern Bering Sea shelf have been affected to date by reported or unreported harvests in the donut hole outside the U.S. EEZ. However, downstream effects of the egg and larvae that would otherwise be released by the donut catch on U.S. EEZ stocks cannot be completely ruled out. Such downstream effects are not expected to be detected until at least two years later. Although our current 1987 analyses are an accurate reflection of harvest and condition of pollock in the eastern Bering Sea, the potential impact of a significant unreported catch cannot be resolved until results of the 1988 hydro-acoustic/trawl survey are conducted later this year.

Certainly, the ultimate conservative management response would be to stop fishing in the donut until stock identity is determined. However, this would completely deprive us of the opportunity to run an observer program to collect data and biological specimens from commercial vessels for a much needed research program to delineate stocks in the Bering Sea. Since no population declines have yet been detected on the shelf which can be attributed to donut hole fisheries, a complete closure may be an over-reaction at this time. A carefully monitored limited fishery may be a better management response.

QUESTION 7:

The reported catch in the donut hole was nearly 1 million metric tons in 1986. How, if at all, did NOAA's scientific advice on catch limits in our zone take account of those catches and their potential impact on the stock of pollock?

ANSWER: NOAA's scientific advice did in fact take into account the potential impact of "donut" catches when the total allowable catch for the 1988 fishery was determined. The advice was incorporated into the Resource Assessment Document for Bering Sea/Aleutians groundfish produced by the North Pacific Fishery Management Council in 1987. In essence, the scientists noted that any negative impact of high catches in the "donut" in 1986 and 1987 have not been detected in the eastern Bering Sea/Aleutians management areas so far. As such, the quantitative assessments made of U.S. EEZ stocks correctly reflected the status of the stocks and the total allowable catch was set accordingly by the Council and NOAA.

As has been noted in the answer to question six, however, any downstream effects of "donut" catches on U.S. EEZ fish are not expected until at least two years later. Therefore, NOAA scientists will be monitoring the impact on EEZ stocks through hydro-acoustic/trawl surveys on the eastern Bering Sea each year. Appropriate management responses would be determined at that time.

QUESTIONS OF SENATOR EVANS AND THE ANSWERS THERETO

QUESTION 1:

What do you believe to be the impact of illegal fishing in the Bering Sea on other fish resources such as the salmon and herring stocks?

ANSWER: Salmon and herring occur as bycatches during trawling for pollock. Other species, such as Pacific cod, halibut and various flounders and soles, are also taken in trawls during periods when pollock are fished at or near the bottom. Because the charcter and extent of illegal fishing is unknown, its impacts on various species likely taken as bycatch cannot be estimated beyond noting that all stocks are fully exploited in legal fisheries and any additional removals must be considered excessive.

QUESTION 2:

Do you envision any mechanism for utilizing resources that Alaska and Washington State might have, either in the area of research or otherwise, that would perhaps be useful to NOAA, in working toward a solution for this particular problem?

ANSWER: The States of Alaska and Washington have first-class resource agencies as well as distinguished academic institutions with great strength in fisheries research. The "Donut Hole" problem essentially occurs in either international or federally-controlled waters, beyond State limits, thus substantially limiting very active participation by either the Washington Department of Fisheries or the Alaska Department of Fish and Game. On the other hand, elements of the academic community in both States are interested in playing an active role, but are limited by their own resources. Some support for work in the Bering Sea has been provided to both the University of Washington and the University of Alaska by NOAA. We understand that at least some industry groups are willing to support appropriate research at the University of Washington, Fisheries Research Institute. As in the past, we would welcome the active participation of our academic colleagues in work on this problem.

QUESTION 3:

On March 14, NOAA announced that fines totaling $100,000 have been levied against three Japanese firms whose ships were videotaped by the Alaska Factory Trawlers Association. What is the status of these fines? When such fines are levied, what has been the past rate of collection? Would increasing our fines serve as an additional deterrent to poachers? If so, what would be a recommended increase? Where do the funds from collected fines go?

ANSWER: Attorneys for the three Japanese firms have submitted a hearing request, but there is a good possibility the cases will be resolved without going to hearing.

With a few exceptions, NOAA has collected 100 percent of the civil penalties finally assessed against foreign vessels for fishing violations. The exceptions are for violations by vessels of countries whose GIFAs subsequently expired (Mexico and Spain). When there are no permits or allocations available, NOAA has little leverage to compel payment of penalties.

When the Magnuson Act's sanctions are all available to us, they are usually an adequate deterrent to violations. That is, a combination of civil penalties, permit sanctions, and forfeitures of fish and vessels serves as a powerful disincentive to fishing captains tempted to break the rules. In a case such as the Japanese poachers, however, not all the sanctions are available. Because the Coast Guard was not on the scene January 13, the vessels fled back to the "donut hole" or to their home ports before they could be seized. We have asked the Government of Japan to return the vessels so that forfeiture proceedings may be instituted, but have received no affirmative response. The permit sanctions we have proposed against the three companies are not very onerous, since none of their vessels currently has a U.S. permit and may not have expectations of receiving one. Given the slim possibility of being detected, a foreign poacher may not be deterred by a penalty of only $25,000, the statutory maximum.

Another example of the inadequacy of the $25,000 penalty is a group of cases where the allowed incidental catch of a valuable species was exceeded. The overages were not discovered for months, long after the fish had been sold. Because the violations were first offenses for the vessels and appeared to be inadvertent rather than deliberate, permit sanctions and vessel forfeitures were considered inappropriate. Yet the illegal gain on several trips exceeded the $25,000 we could charge for each violation.

NOAA will consider recommending an increase in the Magnuson Act's civil penalty maximum, perhaps to $100,000, during next year's reauthorization process (FY 89). Penalty assessments in excess of $25,000 could be reserved for the most serious violations, where permit and forfeiture sanctions are not available.

Penalties and administrative forfeiture proceeds are deposited in the General Treasury.

Senator ADAMS. Thank you very much, Mr. Douglas, for your excellent testimony. We will have questions for Dr. Aron. Prior to that, however, I would like to welcome our colleague and old friend, Representative Don Young of Alaska.

Don, it is a pleasure to have you here this morning. And we would be pleased to receive not only a statement from you, but if you wish to participate with questioning of certain of the witnesses, I am certain no members of the committee will object.

STATEMENT OF HON. DON YOUNG, U.S. REPRESENTATIVE FROM ALASKA

Mr. YOUNG. Thank you, Mr. Chairman and other members of the committee for holding these hearings. They are vitally important to the fishing industry for the State of Alaska and, of course, the sustained yield of the Bering Sea.

Mr. Chairman, I would like to submit for the record a written statement that we can put into the record at this time. And I'll shorten my vocal statement at this time too.

Senator ADAMS. Without objection, the statement will be included in full in the record.

Mr. YOUNG. Mr. Chairman, I am sure many people have mentioned the crucial aspect of the donut. And Mr. Douglas has also just mentioned, and I'm sure Mr. Wolfe, the concept of being able to provide to the American fishermen a sustained yield, which is the basis of the Magnuson Act. And I am pleased to hear Mr. Douglas say that it should not be just for the fishermen of America to practice conservation and good fishing practices. It has to be an international aspect especially in the Bering Sea.

Mr. Chairman, in my written statement there are some suggestions that actually probably have been addressed before. And because I am late, I would like to repeat those.

I think the most telling one or the quickest one would be a check-in/check-out proposal for those ships entering the area. That would have to be done on both sides, the American side and, of course, the Russian side. That is the quickest way.

Two, would be to put on identifiers or transponders which still, very frankly, I don't think would achieve what we are seeking to do because if I were one of the bandits who have been fishing the area—and I know they've been in the area—I'd just put the transponder on a buoy and go out and catch the fish in the waters of America. Again, I didn't say I'd do that, but if I were one of the bandits.

Third, I think the best one is one I believe that has been mentioned by our good senior Senator from Alaska. I would like to see it this time with cooperation with Russia to make this a sanctuary, maybe a long-term sanctuary until we can really figure out what is going on. I in my statement have mentioned a moratorium, but a moratorium alludes to the fact that we are going back and fish in the area at a later time. Temporarily we ought to make it a sanctuary because the ecosystem, as Mr. Douglas has mentioned, is the whole sea. You over-fish one area, it affects another area. And this probably with cooperation right now with Russia could be achieved. So, I would urge that the State Department, the Defense Depart-

ment and, of course, the Coast Guard which is overburdened right now with responsibility—we have to give them wherewithal to patrol if we don't do the other three subjects which we're suggesting.

So, Mr. Chairman, again thank you. This is a crucial issue. It's probably the most crucial issue facing the fisheries in the Bering Sea that we are faced with after the 200 mile limit. We must and we should as a body on the Senate and House side make sure that the Administration and those agencies involved will have an opportunity to stop the over-fishing, the illegal fishing that is occurring in the donut.

Mr. Chairman, with your permission, I will be in the room for about a half an hour. Then I must leave for another meeting. Thank you.

[The statement follows:]

STATEMENT OF HON. DON YOUNG, U.S. REPRESENTATIVE FROM ALASKA

Mr. Chairman, Members of the Committee I want to thank you for allowing a member of the "other body" to address the issues you are considering today. Concerns over illegal fishing are not limited by political party membership, service in legislative bodies, or residence in specific areas. Illegal fishing concerns us all.

As you know, we in the Pacific Northwest have long suspected, and have recently confirmed, that certain foreign nations are taking advantage of weather conditions and our lack of support for the Coast Guard budget to slip into our 200-mile zone and harvest the resources available there. This results in two problems: (1) Our fishermen and processors are deprived of resources and market opportunites; and (2) the long-term health of the fisheries resources in the Bering Sea are out in jeopardy. As stewards of these resources we have no way of knowing how much is being caught of which species. This compounds our management problems and it may force our regional Fishery Management Councils to curtail sharply our ability to catch fish within our own 200-mile zone. U.S. fishermen may wind up sitting on the beach next to empty processing plants while the violators fish to their pocketbooks' content. We cannot allow this to happen.

Two major courses of action need to be pursued. First, we must exercise our domestic authority to enforce our laws and provide the Coast Gaurd and the National Marine Fisheries Service with the funds they need to conduct that enforcement. In the House we have initiated a number of steps in this regard. Seven Members of the merchant Marine and Fisheries Committee have joined me in requesting NMFS to require foreign fishing vessels to physically check in and our of our 200-mile zone as a condition for receiving a permit. We have also asked NMFS to use its authority to suspend, revoke, or deny permits to vessels suspected of engaging in illegal activities. We will be recommending an increase in appropriate funds for fisheries enforcement even though this increase may come at the expense of other NMFS programs. For the Coast Guard, 38 members have introduced legislation calling for supplemental funding for the Coast Guard in fiscal year 1988 to offset the cuts that agency is facing. I have joined our colleague, John Miller of Washington, in sponsoring a resolution calling for the use of position indicating devices on foreign vessels. All of these proposals, in the short term, will help address the enforcement problem.

For the long term, however, something more is needed. Thus, my second suggestion is that the Congress and the Administration call upon all nations fishing in the international waters of the Bering Sea to implement a moratorium on fishing for groundfish in this area. Concurrent with the moratorium, we should begin immediately to negotiate a multilateral agreement controlling access to the "donut hole" and providing for research on stocks and vigorous enforcement against violators. Only when such an agreement is reached and implemented should fishing be allowed to continue.

I recognize that a moratorium may be seen as a drastic step, but I believe that it is the only effective way to ensure that fisheries resources are conserved. If the Governments of Japan, Korea, Poland, the Soviet Union, China, and even our own government are really concerned about the future of these resources, then they should demonstrate their willingness to cooperate by agreeing to a moratorium. A moratorium gives us breathing room; we can get about the business of answering research, access, management and enforcement questions without worrying whether the fish

stocks are being fished to extinction. We need a moratorium on groundfish harvest now, before it is too late.

Mr. Chairman, let me again make clear that I and my colleagues in the House are ready to work with you on resolving these problems. However, I hope that you will come to recognize, as I have, that simply looking at enforcement is not enough. We as a Congress need to take positive action for the future.

Thank you.

Senator ADAMS. Thank you, Representative Young.

Mr. Douglas, we are going to have to break for a vote here in a few minutes, but we will use our time to the best advantage and we will simply recess for 10 minutes and come back. But I wanted to address a question to you before we break since we have Dr. Aron here and the members are all present.

I think one of the primary scientific questions that we are concerned about and would like to have addressed by yourself and Dr. Arons has already been mentioned by Senator Stevens, Senator Evans, and myself, and that is, in your opinion, is the Bering Sea a single ecosystem and is foreign fishing, either legal or illegal depleting our domestic stocks? This goes to the basic question raised by Senator Stevens that we have one problem if there is a separate doughnut stock that we are managing in a multinational manner that is just in the international waters. It is a very different problem if it is a single stock in the Bering Sea and changes in one area affect the system as a whole.

I mention this because I have fished in Alaska and I am familiar both with how difficult the waters and climate conditions there can be and with the original agreement with the Japanese to split the Pacific which was just a very crude way of saying Asiatic stocks are on one side and U.S. stocks are on the other. We have since found that, of course, that is not true. So, we would be very interested, Mr. Douglas, either in your comments or Dr. Aron on whether it's a single stock or whether the stocks are separate.

Mr. DOUGLAS. I would like Dr. Aron to answer that. The answer is not a simple yes or no. I think Dr. Aron would like to explain some of that. How long does the committee have right now?

Senator ADAMS. Well, what we'll do is recess right now for 10 minutes because that is the second part of this vote. Members of the committee will go over and vote. We'll come right back, and then, Dr. Aron, we will hear from you. And then, Ambassador Wolfe, if you can prepare, we would like to hear about the status of your negotiations with the Soviets.

So, the committee will stand in recess for 10 minutes.

[Recess.]

Senator ADAMS. The committee will come to order. We will resume with the panel.

I apologize for interrupting the panel, but it is the nature of the system here. So, I am sure that you all understand, having all testified many times before, as I have, before Senate committees.

I had a single question and, Dr. Aron and Mr. Douglas, I assume you have had an opportunity to talk about it. I would appreciate if you could answer that. Then I'm going to turn to my colleagues. I may have some more questions, but I will submit those in writing in order that we may hear as many witnesses as possible this morning. So, Dr. Aron or Mr. Douglas, whichever of you wish to comment? Dr. Aron?

Dr. ARON. Thank you, Mr. Chairman. It is a pleasure for me to be here particularly to have the honor to testify before a delegation that, in fact, represents fishery resources that equal 50 percent of the resources of the United States' 200 mile zone. Our area is absolutely critical in terms of the Nation's fisheries arena.

As I listened to each of you this morning, I became very impressed with your own biological knowledge. Your perceptions of what the donut is like and the consequences of donut fishing are right on target.

Any examination of the whole Bering Sea has to include the Sea of Okotsk. There is some evidence that the Sea of Okotsk, quite likely because of its oceanography, contains a stock of pollock which is more or less unique to that area. Generate data confirm this view.

On the other hand, that is only a small portion of the Bering Sea, and the greatest bulk of the Bering Sea, including the donut, certainly including our own area, as well as most of the Soviet area, is characterized by an oceanographic circulation which frankly gives credibility to a belief that the most likely hypothesis is that we have a very large, single stock of pollock for that whole area. I think we have to understand that the fundamental data base does not exist to be able to say anything with absolute certainty.

There have been some assertions that have been made regarding the likelihood of the donut stock being unique. There is no evidence whatsoever to support a view that the fish that come from the donut are unique to the donut.

Senator ADAMS. Simply stated, Doctor, so that everyone understands it, our issue and our problem at the moment—and what I think you are saying to us—is you cannot tell from fish on-board whether they have been caught within the American zone or in the donut.

Dr. ARON. That is correct, Senator. And I think the North Pacific Fishery Management Council in its own recent decisions, to take what amounts to a very conservative stand on allocations to the domestic fleet, took it with a concern for what has happened in the donut and what may happen in the future.

Based on our own examination of what is going on in the donut—and I think that Sam Hjelle and Ted Evans should be congratulated for the work that they did it is fairly clear that from our own observer data that most of the fish could have come only from the U.S. EEZ.

For those cruises which targeted on pollock in the donut, the yields were substantially less than the yields that our fishery enjoys when we fish the Shelikof Straits when we fish our own zone on the shelf.

And the data that we have received from foreign governments as to their catch per unit of effort is quite different than the data that we have on catch per unit of effort from the ships we have observed, leading us to suspect the absolute proof of what Sam Hjelle and Ted Evans found, that the high catch per unit of effort could almost certainly have only been found by ships operating illegally in the U.S. zone.

I think for the time being, in terms of that which we know, the very best approach we have is to manage as if we are dealing with a single stock of fish.

Senator ADAMS. Thank you, Dr. Aron.

Admiral Yost, I have one question for you. I have had some experience with the Coast Guard as a Cabinet officer and having the Coast Guard within it. And I have always been concerned at the lack of resources.

Would you state to me the status of your negotiations, particularly with the Navy and the Air Force, concerning cooperation with regards to surveillance activities in the Bering Sea, so that we can determine whether we might be of some assistance without going into classified material, our surveillance of this area is significant. Is this data being shared with you? Because all of us know that region up there, and 6 cutters and 25 overflights into the type of climate and area we are dealing with is very minimal coverage? And I want to know whether you have any statement you wish to make as to what we might do to place other resources of the United States into this action.

Admiral YOST. We have talked to both the Air Force and the Navy. The Navy has immediately agreed to provide us any sighting data that they get in their operations up there. We are still working with the Air Force and Navy on getting some dedicated effort from them.

I have a real dichotomy here. The people that ought to be doing this job and can do it at the least cost to the taxpayer and do it most effectively are the Coast Guard men and women who are sitting idly at docks, sitting idly on the runway while the capital investment of this country is tied up without maintenance money, without spare parts money, and without fuel money.

And for me to go to the other heads of service and say to them how about spinning off some of your capital assets who have been funded for an entirely different reason and use your people who have been trained in an entirely different operation to fill in because I can't seem to get the right budget level from the Congress is at least embarrassing and at most frustrating and counterproductive for all of us. I will do that because I think that it has to be done. We need to get whatever effort we can get up here. It's certainly not the way to do it, sir.

Senator ADAMS. Thank you, Admiral.

Senator Stevens?

Senator STEVENS. Admiral, as I recall we added about $1.2 billion to your capital acquisitions budget, and we have not increased your operations and maintenance budget accordingly. Isn't that the key to your real problem?

Admiral YOST. That is the key, and I would say, Senator, at the risk of perhaps embarrassing you, without what you have done for the Coast Guard year after year after year outside of the transportation budget, we would be in far, far worse shape than we are now. The problem is in our operating funds. And although through your and other's efforts last year we did get $105 million out of defense funds, in-kind support in our operating account, we still ended up with over $100 million shortfall in what we needed.

This year the President has asked for more than $300 million above 1988 enacted for the Coast Guard, and that is because 1988 enacted was so low. And I don't know whether we're going to get that or not.

Senator STEVENS. Well, we are going to address that question I think more directly.

It is my judgment that a considerable portion of your money is being expended on the war on drugs. And I support that. But that is a war, and the Navy is in business to fight wars. This is law enforcement, and it is surveillance of civilians in terms of fishing efforts. And I think we ought to find some way to get you more assistance on the war side so that you can continue to apply your assets as much as possible, to the greatest extent possible, to your conventional efforts. The war on drugs really is a situation where you are taking on people that are armed and have high-speed offensive type equipment. You haven't run into any of that in the North Pacific.

Admiral YOST. No, sir, we certainly haven't.

Senator STEVENS. Not yet I hope. We all pray you won't. But I do appreciate that.

I want to follow the Chairman's suggestion, and I'll submit some questions too for the record.

But I do hope that one of the things we can do—I notice that Ambassador Wolfe has indicated that they have put together through States' efforts and interagency group to explore all of the questions that are related to negotiations with the Soviets. I would like to see you put together an interagency group that would be exploring all of the issues related to the law enforcement problems under existing agreements and under existing law. I don't think we have really adequately, totally explored the concept of all the technological options we have and the pooling of resources that could be available.

Let me move on because, as the Chairman said, I don't want to use too much time.

Dr. Aron, every year we have put up in the Appropriations Committee money for baseline data in the North Pacific. And I know it has been primarily related to salmon stocks. If I hear you right, what you are really saying is that you haven't had the facilities and the funding to develop an adequate body of basic data to analyze this pollock stock and to be sure of your tentative conclusion that this is a single stock we're dealing with.

What really are we talking about in terms of financial resources to get to the point where we could know the size and composition, location and all the statistics relative to this stock?

Dr. ARON. Senator Stevens, we have—and we would be pleased to submit for the record,[1] if you wish—developed a specific research proposal. That research proposal consists of both a requirement for new allocations of money and also represents substantial reprogramming from within the Northwest and Alaska Fisheries Center. But we anticipate that we could provide quite substantial answers to all of the questions that are really critical to the donut issue

[1] The material was retained in the Committee files.

from the point of view of science for a budget that would represent over a several year period expenditures on the order of $1.3 million per year of new money, and by something like 1990 we would have the answers we need.

Senator STEVENS. Mr. Chairman, I would urge we get that request. I would ask you to proceed, Mr. Douglas, if you can, quickly with a request for reprogramming. And we will see about trying to get the additional money for NOAA to allocate to that study.

Dr. ARON. The money from within the center doesn't require any reprogramming requests. Really, it is just reformulation of our own program activities, and it does not need, as far as I can tell, any reprogramming authority.

Senator STEVENS. But you think for a little bit more than a million a year you could build up this body of data that we need for this process.

Dr. ARON. Yes, sir.

Senator STEVENS. I look forward to seeing your paper, Dr. Aron. I've heard a great deal about what you are doing in this area. And I want to congratulate you for your work and for your reputation. As you know, within the industry it is an excellent one. And we thank you for your long, hard work.

Dr. ARON. Senator, if I may, I appreciate your comments and also the comments of my boss. But please, I think I would be dishonest if I didn't reflect on the fact that that which I know comes from having a very large number of incredibly competent and devoted scientists working at the Center and having extraordinary support from the community in which we work. It's a marvelous environment.

Senator STEVENS. Well, you do have that support. I know that.

Ambassador Wolfe, you are back to a meeting with the Soviets some time in late March?

Ambassador WOLFE. Late March/early April, Senator Stevens.

Senator STEVENS. I don't want to pursue you right now for an opinion upon the suggestion I'm going to make to the Senate today that you be urged to pursue this sanctuary concept.

But can you tell me what we know about what the Soviets are doing on their side with regard to developing the data of the type that Dr. Aron is pursuing for us and what they are doing with regard to their enforcement efforts concerning the intrusions into their 200-mile zone?

Ambassador WOLFE. I'm not in the position at this point, Senator Stevens, to tell you exactly what the Soviets are doing. As I explained earlier, we had a meeting in January; we proposed this rather historic bilateral task force. I have every intention of addressing these particular questions during the first meeting in late March/early April.

I'm not quite sure what they are doing in their own zone in terms of enforcement. They do have something of a science base, or a data base, and we will explore with them what they have and what we have from Dr. Aron and the National Marine Fishery Service. After we find out what we have together, we hope we can move forward and make a decision to determine if there is enough science to consider some type of conservation effort in the donut area.

Senator STEVENS. The Japanese that met with me indicated that should we establish a moratorium or a closure of the donut, if they were unable also to have access to the 200 mile limit because of our allocations, that they would recommend that their country withdraw from the INPFC. I think I would just like to put on the record what I told them, that if that happened I would pursue—and I think all of us from our region would pursue—a concept of a boycott on Japanese fish products both in terms of importation, and furthermore, that we would try to boycott or prevent, put an embargo on the exportation of any fish products from American waters to Japan.

I hope that if you do have a chance to meet with the Japanese you convey to them our absolute amazement at the threat that they might withdraw from the INPFC. And I think that it would be the worst thing they could possibly do from the point of view of our bilateral relations. If anyone thinks that there has been any Japanese bashing going on around here to date, they would not believe they were in the same Senate if that happened I think we would act in the most extreme manner we could against such action. It would be a total abandonment by one nation of the Pacific of the conservation concepts involved and a long history of relationships between our country and Japan and one that also involves the Soviets. I think that threat ought to be met head on, and I hope you can convey that to them. It would be the worst thing that they could possibly do under the circumstances.

Ambassador WOLFE. We will reiterate that message very clearly, Senator Stevens.

If I might, Senator Adams, could I have a minute just to comment on the moratorium concept that has been raised; is that agreeable? It has been raised two or three times this morning. And I think, as I said in my opening statement, this type of forum is very important to send messages around the world as to our intentions for future activities to protect our resources. And I would like to go on the record in this forum today and respond as best as I can to the moratorium suggestion, proposal, of a few members of both the House and the Senate.

Senator ADAMS. Go ahead, Ambassador Wolfe.

Ambassador WOLFE. Let me preface my comments with the understanding that we are in the middle, as you know, of an intergovernmental process with all the agencies involved. So, I'm not in a position to give you a hard and fast answer one way or the other. But I would like to give you at least the benefit or lack thereof of preliminary comments from the Department of State in my capacity as chairman of this interagency group.

I think that the moratorium concept on fishing is one possibility. And I will tell you that this is one part of our interagency review, along with unilateral—you know some concerns there—and, obviously, along with multilateral approaches. The moratorium has, as I'm sure you know, been justified in other cases, for example the International Whaling Commission, for conservation reasons. The legal aspects are under review by our group.

I would have to defer to our colleagues in Commerce regarding whether the available data exists to get to this moratorium concept. I think that's a very important point. We are going to have to

show, in my opinion, that the appropriate scientific data exists, that the donut fisheries are having an immediate adverse impact on our stocks in our zone if we are going to get to that point, that is to say, the moratorium point.

And also in a moratorium concept, we would have to certainly consider the ability to enforce against countries that are not abiding by the moratorium. I have looked into the possibility, as early as yesterday, of implementation of a moratorium, how would we do it—presidential directive, possibly by Cabinet official—depending on what we were attempting to do, depending on regulation of stocks in our zone, or whether we are talking about regulating stocks on the high seas in the donut.

So, I tell you this just because I want you to know that we are reviewing this possibility, along with others. It's an option that is being given serious consideration. And we will stay in touch, as we have, with all of your staffs on this issue and everything else before we meet with the Soviets within the next month or two and have a U.S. formal position that we all agree on, or as close as possible to one that we all agree on.

Senator ADAMS. We'd appreciate that, Ambassador Wolfe, if you would keep the committee informed.

Senator Evans?

Senator EVANS. Let me first talk about what range of alternatives there might be in relationship to vessels other than those of the Soviets and the Americans fishing in or around the donut hole.

Admiral Yost or Ambassador Wolfe, or both, is there any way for us to prevent transit of foreign vessels, utilizing their presumed right to the high seas from traversing the Aleutian Islands within the economic zones of the United States or the Soviet Union, but outside the territorial boundaries and get to the donut hole? In other words, do we really have the right to prevent any ship from going there in their use of the high seas?

Admiral YOST. Let me ask the Ambassador to discuss that, sir.

Ambassador WOLFE. Let me ask one of the Admiral's people. I think that could move into a broader area that has equal importance in this conversation, just the general issue of transiting. And I bring into that transponders, if I may. I bring into that the check-in/check-out proposals that has been brought forward. I think they are interrelated and I think we need to keep all of these in mind when we talk about transiting and the provisions thereof.

With regard to transponders, we are obviously still in an interagency mode considering that. We believe that there is merit to require foreign vessels to use transponders. Obviously we are able to do that under the terms of the GIFA.

Senator EVANS. Under the terms of what?

Ambassador WOLFE. I'm sorry. The Governing International Fisheries Agreement, article 11, I believe. I don't have it in front of me. But there is a provision that provides for position-fixing equipment. And we would certainly be able to—I think the words are demand foreign country fishing in our zone with a permit to use this type of equipment.

When we are talking about transiting vessels, outside of our zone, we are obviously talking about something that was referenced earlier by the committee, and that's high seas freedoms. We

are reviewing the possibility, with regard to transiting and high seas freedoms, of the transponder concept and whether that could be applied to foreign vessels not having a permit.

Senator EVANS. Let's separate that out and leave the transponders aside for the time being. The more fundamental question—and I think I know the answer to it, but I would like to have it on the record—is wouldn't it be inconsistent of us, to say the least, and probably illegal under international law, to prevent transit of vessels from the Pacific Ocean through the Aleutian chain outside of American territorial waters, but inside the economic zone in order to transit to the donut hole? Forget for the moment what they are going to be doing there or anything else. Would we sustain another nation's freedom of the high seas in that transit?

Ambassador WOLFE. Very simply, Senator Evans, I think that the Department would be concerned over attempts because of implications of freedom of navigation throughout the world. And I would use as an example the recent incident regarding innocent passage in the Black Sea. If I understood your question correctly, I think it would be contrary to U.S. law, policy and interest to establish a precedent or restriction of this type.

Senator EVANS. In other words, we would not like it applied to us in transit of the Straits of Gibraltar, for instance.

Ambassador WOLFE. Or wherever.

Senator EVANS. Or wherever.

Senator ADAMS. Senator Evans, we will return to you. We have another vote. We will recess for 10 minutes.

Did you have a question here?

Mr. YOUNG. I have two questions.

Senator ADAMS. I hate to have Representative Young wait on our voting here. Please.

Mr. YOUNG. You can give me a gavel too.

Dr. Aron and Mr. Douglas, we are talking about pollock in your studies. In reality, though, can the other fish species be affected by the fishing that is occurring inside the donut, such as herring, salmon, et cetera. Do you have any evidence of that effect?

Dr. ARON. Mr. Young, I think a little bit later today Steve Pennoyer, who is certainly one of the clear experts, will have some things to say.

From the observer data that we have obtained in the donut, there has been evidence of catches of salmon on the high seas.

Mr. YOUNG. And herring?

Dr. ARON. I am not aware—and I told Steve, and I'll be happy, Mr. Young, to provide it for the record. I'm not aware that there have been any intercepts of herring, but I would have to check that.

[The following information was subsequently received for the record:]

Year	Number of hauls observed	Number of salmon/metric ton of groundfish
1982	17	None
1983	76	0.0018
1984	839	.0190

Year	Number of hauls observed	Number of salmon/metric ton of groundfish
1985	599	.0077
1986	122	.0013
1987	37	.0030

No Pacific herring were observed in any of the hauls.

Mr. YOUNG. Well, both those fish, as you are well aware, are very crucial to Alaskan residents. And if the foreign vessels are doing what they are doing to the pollock and if they're also doing it to the other species, we ought to take that into consideration.

Dr. ARON. They are vital particularly to the western Alaskans and we are concerned about that.

Early on there were complaints raised because of the salmon intercepts, and following those complaints, either through alteration of fishing strategy or alteration of where particularly the Japanese fish, those catches of salmon dropped markedly. But I think it is an area where there is good reason to be concerned.

Senator ADAMS. The committee will stand in recess for 10 minutes. If the panel will remain, we will proceed with Senator Evans' questions.

[Recess.]

Senator ADAMS. The committee will come to order and we will resume with the panel.

When the committee recessed, Senator Evans was questioning, and at this point the Chair recognizes Senator Evans.

Senator EVANS. Thank you, Mr. Chairman. I know that there are many other panels, and I'll try in these other panels to reserve questions for the record, unless there is something that appears to be so unique or urgent that we ought to take it up with regular questioning.

But let me pursue this line because I think it is important. We have established, I think, that it really would not be appropriate, or at least we would not like the potential consequences of restricting navigation on the open seas. So, we have the opportunity then for foreign vessels to transit into the donut hole.

What international agreements or what rights—if the Soviets and the United States were to get together—allow the ability to restrict fishing by third party vessels within the donut area? We have established that we have got the boats in there and they can freely get there. Now, what can we do to restrict their fishing once they get there?

Admiral YOST. Well, as you say, if they can in fact, through innocent passage, get into the donut hole, there are very few things that we can do in exercising jurisdiction. If they are in the donut hole and they have committed an offense in our EEZ and we are in hot pursuit, of course, the hot pursuit doctrine applies.

If there is some sort of an international agreement within the donut hole, then in accordance with whatever that agreement provides in the way of enforcement, we can do that. And those agreements usually provide for flag state prosecution of violation. So, very often one of those agreements will not produce a direct ability

to seize and prosecute them ourselves. But that depends on what kind of an agreement is worked out.

The third would be by special arrangement. And sometimes we can ask for a special arrangement with a flag state. We did ask the State Department to approach the Japanese on an incident back in January for a special arrangement in an enforcement situation. The Japanese refused to even authorize the boarding. So, that sometimes doesn't produce very much either. It leaves you very, very weak in the area of the high seas.

Senator EVANS. Ambassador Wolfe?

Ambassador WOLFE. Yes, sir. There are obviously obligations for any country fishing in a high seas area. International law would require that high seas freedoms be exercised with reasonable regard to the interests of other states. And in particular with regard to fishing, the right must be exercised in a way that cooperates with the coastal states in establishing and implementing conservation measures for high seas fisheries. Failure, in our opinion, of countries or a country to do this would clearly be an abuse of high seas rights.

We are considering in the interagency group—and I apologize for going back to this, but it is a very important group—we are considering now what course to take if we, the U.S., fail to receive cooperation from the countries that are fishing on the high seas.

Senator EVANS. Would it be accurate to say that this is not totally a Japanese problem—that there are Korean, Polish, Chinese, perhaps other nations, also fishing?

Ambassador WOLFE. That's correct. We have numbers of levels of take that have been reported by the governments fishing in the donut area. The Japanese, I believe, have probably taken much more fish than other countries. But, yes, you are correct. There are other countries fishing there.

Senator EVANS. You mentioned transponders earlier. Is there anything under current international law or agreement that would allow us to require vessels transiting the economic zone to the donut hole to have transponders or other navigational devices enabling us either to track them or to assure that they knew very well where they were fishing, and where they were at all times?

Ambassador WOLFE. Outside of our zone?

Senator EVANS. Outside of our zone.

Ambassador WOLFE. Not that I'm aware of. I would defer to the Admiral.

Senator EVANS. So, we are faced with a tough problem, short of reaching an international agreement, in terms of slowing down or stopping fishing within that donut hole.

Ambassador WOLFE. That's correct, Senator Evans. I would point out, if I haven't already, that under—and I'm not necessarily promoting a multilateral regime, but I think you can see from the enforcement perspective, we do have a problem if we went another direction.

Under a multilateral regime we would, in fact, have the possibility of an enforcement regime. We could use the transponders on all of the vessels fishing in the donut. We could probably apply a check-in/check-out procedure similar to what we do now with permitted vessels fishing in our zone. Again, I'm not making a case.

I'm just making a point that that could remedy some of the enforcement problems.

Senator EVANS. I saw a recent article in the Seattle Post Intelligencer about the fining of several Japanese firms who had intruded on our EEZ. Fines of $100,000, which were the limit, were levied. What is our record in collecting those fines when levied against foreign fishing vessels?

Ambassador WOLFE. I don't know.

Mr. DOUGLAS. Senator Evans, we have that information for several years. I think it would be easier to supply it to you for the record. Are you interested just in the Alaska area—we have it broken down by area—or by total U.S.?

Senator EVANS. Well, I think it would be useful just to get a sense of what the response of other nations is to fines levied on them when they are charged with fishing illegally in American waters.

Mr. DOUGLAS. Yes, sir. Let us supply that for the record,[2] sir. I think that will be sufficient for you.

Senator EVANS. Do you have an idea just very briefly, do we collect most of the time?

Mr. DOUGLAS. Yes, we do.

Admiral YOST. I would say it is generally quite good. I think that is what we will find when we find that for the record.

Senator EVANS. Is the fine sufficient? A $100,000 fine sounds like a lot. If it is measured against the multi-million dollar catch, it is just the cost of doing business. Should we be increasing the level or limits of those fines?

Mr. DOUGLAS. Actually most of our limits are $25,000. You get more than that by having multiple infractions and in adding it up. For example, in this instance, the vessels that were identified—and as I said, four of them were identified—only one charge of fishing without a permit, a $25,000 fine. Curiously of those two vessels that were unidentified, but yet we know were separate vessels and were violators, we have issued NOVAs against those two unidentified vessels for two charges, fishing without a permit and not having their identification numbers in view.

Senator EVANS. It is pretty hard to serve that fine.

Mr. DOUGLAS. That is going to be difficult, yes, sir.

Senator EVANS. Well, would you recommend that we raise the limits substantially on those fines so that they could be levied and really mean something?

Mr. DOUGLAS. It is clear that those types of fines are not always sufficient deterrents, but I think we need to really look at that, Senator, more carefully in light of other issues. I would not be prepared to answer the Senator yes or no on that.

Senator EVANS. Thank you. Thank you, Mr. Chairman.

Senator ADAMS. Thank you, Senator Evans:

We want to thank the members of the panel. Members of the committee will submit additional questions in writing as we have indicated. We have limited our questions in order that we may hear as many witnesses as possible. The Chairman and the other

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[2] The material was retained in the Committee files.

members of the committee wish to thank each of you for your candid and direct testimony and for your technical knowledge and capacity. We appreciate it very much.

The next panel consists of Mr. Edward Evans, Executive Director, Alaska Factory Trawler Association, who will be accompanied by Mr. Sam Hjelle, co-owner of Glacier Fish Company, Limited; and Mr. John G. Peterson, Vice Chairman, North Pacific Fishery Management Council.

I have indicated in the opening statement that these two witnesses will be indicating and showing to the committee the films that they took. I will not be enforcing, because of the time this will require the five minute rule that we will be applying elsewhere.

If that panel will please come forward, and if we can be certain that the technical equipment is working, Mr. Evans and Mr. Hjelle and Mr. Peterson, you may proceed as you wish in presenting your film. If you wish to present written statements, without objection, they will be included in full in the record, and you may summarize or you may read portions of your statement as you wish. And we are looking forward to both seeing your video presentation and hearing from you. Mr. Evans, do you want to proceed?

STATEMENT OF EDWARD D. EVANS, EXECUTIVE DIRECTOR, ALASKA FACTORY TRAWLER ASSOCIATION, ACCOMPANIED BY SAM HJELLE, CO-OWNER, GLACIER FISH CO., LTD.

Mr. EVANS. Thank you very much, Senator, Senator Stevens and Senator Evans: Thank you very much for the attention that you have given this matter on behalf of the entire fishing industry of the northwest and Alaska. Obviously we consider it to be a very important matter and we think it is very appropriate that the Federal Government investigate this issue as you are doing.

I think before we get into our testimony, we ought to run the video tape. And just to set up the circumstances of the flight, as you know, we were acting on long-held beliefs by many members of the fishing industry that illegal foreign fishing was, indeed, going on in this area. And with the information which we obtained from the Coast Guard last December with respect to a number of sightings of foreign fishing vessels within our zone, but having made no cases with respect to these vessels, our industry, and specifically our association, chartered a vessel and made this flight on January 12 and 13. And I will just go to the chart here to give you a brief summary of what we did.

On January 12, we left Anchorage in a chartered Peninsula Airways Conquest——

Senator ADAMS. Do you want to pull over Mr. Hjelle's microphone so that everyone can hear you? Thank you. That's good.

Mr. EVANS. We left from Anchorage early in the morning and proceeded westward to this shelf area here south of the Pribilof Islands, proceeded to the northwest and returned to Cold Bay for the evening. And on that leg of the flight, we saw only one foreign vessel. It was Polish, but it was not fishing.

So, on the second day, January 13, we proceeded out the Aleutian chain, refueled in Adak and made our way to this area called

Barrows Ridge. Specifically, Olm Plateau is where sighted the vessels fishing illegally 38 miles inside the U.S. EEZ.

Having said that now, I'll just pick up the tape where we have descended from 30,000 feet down to roughly 150 feet under a 200 foot cloud layer.

[Video tape was shown.]

Mr. EVANS. It's really quite a difficult task to get good pictures out of an aircraft like this.

We made three passes on these vessels, and as it turns out, we were going from vessel to vessel. And at this point I am somewhat disoriented. I am counting up to I think 10 or 11 vessels, whereas actually there were only 7.

Senator STEVENS. On several of them the markings were covered, weren't they?

Mr. EVANS. That's right, Senator. In fact, as this goes on a little bit, we do a freeze frame on one of the vessels that has its markings covered.

As you can see, it's difficult to determine if the vessels are fishing unless you are on the scene. If you were much further than we were, it is difficult to see that the lines are actually going into the water.

This presents a difficult situation for the Coast Guard.

Senator EVANS. Whether they are fishing or not really doesn't make any difference. There is absolutely no reason for those boats to be inside American waters whatsoever. You are not going to refuel or stop at somebody's dock or anything like that. There is no reason to be there.

Mr. EVANS. That is true at this point, Senator, but I think the Coast Guard feels that it really can't make a case unless it determines that they're fishing.

Now you can see the lines going into the water.

I think I'll just advance the tape a little bit to where we show the covered numbers.

Senator ADAMS. Without objection, the tape will be made a part of the record of the committee hearings.

Mr. Evans, do you want to describe so that the record is complete orally what you have just demonstrated on the video tape so that we have your statement? And Mr. Hjelle, if you wish to comment on this also, why, the committee would be pleased to hear your statement too. Mr. Evans?

Mr. EVANS. Yes, sir.

These are tapes that were made or this tape is an edited version of tapes that were made by Mr. Hjelle and myself on January 12 and 13 as we flew over the Bering Sea. And specifically what we have seen here is in the area of the Olm Plateau, 38 miles inside the U.S. zone.

At this point, if you don't mind, I would like to turn the microphone over to Sam to give his presentation, and then I would like to follow him with a few comments.

Senator ADAMS. All right.

[The statement follows:]

STATEMENT OF EDWARD D. EVANS, EXECUTIVE DIRECTOR, ALASKA FACTORY TRAWLER ASSOCIATION

I am Ted Evans, Executive Director of the Alaska Factory Trawler Association. On behalf of the fishing industry of the Northwest I would like to thank the Chairman and the Senators of the Northwest for the very positive response to the information which our industry has brought to you on the important Bering Sea fishing matters that you are considering today. Your quick response to our concerns as evidenced by these hearings today is most welcomed, for we have gone to great lengths to paint the picture as clearly as we can. It is now clear that a change is needed in the way that we manage our Bering Sea fisheries resources. The reason that the change is needed is that Alaska pollock and other valuable species are undergoing intense and new fishing pressures which are not being accounted for. The unaccounted fishing is occurring in two ways, legal fishing in the doughnut hole by foreign nations and by illegal fishing in the United States EEZ by foreign nations. The problem that we bring to you is not a small one. The reported doughnut hole harvests of Alaska pollock in the past two years has exceeded one million metric tons annually. Failure to account for fishing removals will result in short and long term impacts.

In the short term, we expect to see the following occurrences:

1. Alaska pollock stocks, harvested at a much higher exploitation rate than previously believed will be thinned, thereby reducing the new American fishermen's catch per unit of effort. This will increase the cost to the fishermen of producing Alaska pollock products, thereby making the products less competitive on the world whitefish market and making the cost to American consumers higher.

2. The average size of Alaska pollock which are harvested will be smaller which will make the fish more difficult to market. This would be unfortunate indeed for a fish product which was only recently successfully introduced to the American market by United States fishermen and processors.

3. The amount of Alaska pollock products which are being placed on the market at the present time is artificially high which disrupts the market and reduces the wholesale prices to the producer. The wholesale price of Alaska pollock has fallen to 60 percent of the price for last year.

In the long term, we expect to see the following occurrences:

1. A serious depletion of the Alaska pollock resource will occur due to the incredible doubling, and perhaps tripling of harvests on the biomass of Alaska pollock, a biomass which has been declining over the past five years.

2. The higher cost and lower price of Alaska pollock will affect the viability of the new American fishing businesses. Businesses will fail. The trend of the past ten years under the magnificent system devised by the Congress. to assure our citizens of the benefits of our fisheries resources, will be reversed. The three hundred million dollars which has been invested in the factory trawler segment of the new bottomfish industry will be at risk.

Our considerable investment in the bottomfish fisheries off of Alaska is based upon an optimism that is not unfounded. One of our premises for success in the bottomfish industry is that the ocean to which we have the first priority, the Bering Sea, is the world's most productive ocean. It has consistently produced catch rates which make the production of bottomfish products by our vessels cost effective. In this regard, we have continuously pressed for a conservative management approach, especially when doubt existed with regard to the status of the stocks.

Only three months ago, however, the North Pacific Fisheries Management Council went through an exercise to determine whether the resource could withstand higher exploitations than the 2 million metric ton optimum yield under which the foreign fishery has operated for the past ten years. Of course a lot of pressure has been generated to raise the OY because of the displacement of the foreign fleets, as the fishery was Americanized. Much of the American industry was very concerned about this effort because the effort was admittedly ignoring the impact of the doughnut hole fishery and any fishing which was occurring illegally within the U.S. EEZ. Ultimately the Council rejected the concept of raising the OY for the short term but did commence a plan amendment procedure which could eventually raise the OY. The concern of the new American fishery about the pressures to raise the OY has been one of the major factors which caused AFTA to investigate and attempt to present evidence of the real world of the doughnut hole.

Of course our industry cannot continue to make investments to Americanize the fishery while having such a concern about overfishing. While we felt that the fishery that was subject to management was managed effectively, we feared that there

was a phantom fishery which was not being managed. We have now seen that is in fact the case.

As you know, the Magnuson Act did not guarantee our success. U.S. harvesters and processors were not guaranteed an environment in which we were sure to replace the foreign fishing establishment. Indeed, we were first required to find our markets and be competitive in those markets—not an easy task in view of the higher cost structure we were facing, and in view of the fact that many of our competing countries are non-market countries without a requirement for profit.

However, American fishermen and processors have succeeded. Our competition in the world whitefish fishery, which are the established fishing nations of Japan, Korea, Poland, the USSR, have been hurt by their displacement from the Bering Sea. It is clear that these fishermen desperately want access to the abundance that the Bering Sea offers. But as our success in displacing the foreign fishery is dependnet upon our cost effectiveness, we must ask whether we have discovered strategy to make the new U.S. fishery less productive? Or could these foreign fishing nations simple by doing what we suspect, staging forays into the more productive fishing grounds under cover of night and weather because it makes economic sense. Certainly conditions in the Bering Sea make such adventures practicable, absent some detection and enforcement effort on the part of the Government.

We have presented our facts and our opinions—now what are we asking for?

First, we are asking for an acknowledgement of the problem. That is, acknowledge that we have a border which is difficult to patrol. Acknowledge that the foreign fishing nations which have been displaced are now taking fish from the doughnut hole. Acknowledge that these nations have an incentive to cross into the more productive U.S. zone. Acknowledge that a lack of enforcement ability may have created an atmosphere in which the vessels feel that it may be worth it to stalk across into the sea which hosts the very fisheries resources that they are seeking. And why shouldn't they? There have been no prosecutions for years. Enforcement of this boundary has been ineffective. You can't blame the foxes if the chicken coup door is left open.

Second, we are asking that, having acknowledged the problem, the Government establish the will to do something about it. Naturally when something is asked of the Government the issue of spending arises. We don't feel however that this is necessarily a problem which money solves or which necessarily requires money to solve. First, lets get all of the agencies involved to have the will to stop these kinds of incursions.

With the will having been established, there are some very simple actions which may be taken by the Government to address the problem. The first is to establish a regulatory regime that unties the hand of the enforcement agencies with respect to these border patrols. In many respects this type of enforcement is easier than other missions which we ask of the Coast Guard. To detect poachers the Government must:

1. Detect the vessels;
2. Determine the identity of the vessels, including type of vessel, the nationality and the specific vessel;
3. Determine what the vessels are doing; and
4. Find a way to effect enforcement if the vessel's activity is improper.

Detection of vessels within two hundred miles of our coast is really quite easy, by simply flying regular patrols on an irregular schedule. Indentifying the vessel should similarly be achievable without a significant diversion of resources. The tougher enforcement issue is to determine what the vessels are doing and making a case against vessels deemed in violation. In this respect we feel that a rather simple revision of the present regulatory regime would be effective.

We have been watching the executive branch very carefully since our flight of January 13. We have been back to Washington once since the flight to make certain that there were no misunderstandings about our findings and our concern. We have been encouraged by the near term response in the form of increased patrols, discussions with the Soviets with respect to the formulation of a bilateral committee to pursue action for dougnut hole management. We were hopeful that NOAA and the Coast Guard would have promulgated new regulations for foreign vessels but as yet this has not been done.

We are supportive of all of the proposals that we have heard from the Congress as they go directly to the issue at hand—spot, identify and prosecute fishing vessels which are improperly in the U.S. EEZ.

With respect to the issue of fishing inside of the doughnut hole, we are very encouraged by the development of the bilateral committee with the Soviets to address the doughnut hole issue. This is a very positive and logical step to address the man-

agement of most important fishery resource common to our EEZ's. If a solution to the problem is not achievable, then we must seriously consider calling for a moratorium of all fishing in the doughnut hole immediately. AFTA would support this action as the only reasonable response to a resource emergency created by uncontrolled harvests of our most valuable fisheries resource.

We are very disappointed in the reaction that we have received from the Japanese government to date. We have heard of the visits made by Japanese government officials to their U.S. counterparts in which denials on behalf of the violating vessels are issued. We have heard through these officials that the vessels have claimed never to have entered U.S. waters, or for that matter never to have seen the airplane at the time of our overflight. We had hoped that the Japanese government would be as anxious as you and we are to get to the bottom of this. As yet, it does not appear the case.

We don't have to convince the Congress of the importance of this issue. The Congress acted forcefully in 1976 to establish the Magnuson Act which sets forth as its major premise that the nation shall act to prevent overfishing. Our industry, our balance of trade and our nation's economy have benefited tremendously from this policy—from $0 to $500,000,000 annually at the primarly level in ten years.

It is time to congratulate ourselves because we have enacted a law which works and has stimulated significant economic activity. But it is also time for this Government to assess there new facts of the transition from foreign domination to an American fishery. Sometimes the Government has to gently nudge the constituency and sometimes the constituency has to nudge the Government. In this case, the industry armed with its concern about the health of North Pacific bottomfish, and with information provided by the Coast Guard and the National Marine Fisheries Service (but with our own analysis), took action to demonstrate that our theory about the activities of the foreign fleets are true. Our suspicions were confirmed. And now we are asking that the Government take action to stop the theft.

The Government must pause at this point to realize what it has under its stewardship—an economic resource which, unlike most of the resources the Government manages, is infinitely renewable. Now the United States Government and the United States fishing industry have a common stake in the health of the Bering Sea resources. AFTA is pleased to have played a role in calling attention to the problem and are interested in working cooperatively with the government toward a practical resolution.

ECONOMIC ASPECTS OF U.S. FACTORY TRAWLER DEVELOPMENT—U.S. FACTORY TRAWLER FLEET GROWTH

	1988	1989	Full
Numer of vessels	30	40	80 to 100.
Capital investment	$350,000,000	$500,000,000	$1,000,000,000 plus.
Number of employees	2,500	3,500	8,000.
Sales	$300,000,000	$450,000,000	$1,000,000,000.
Tons harvested	570,000	950,000	1,800,000,000.

Mr. HJELLE. Mr. Chairman, my name is Sam Hjelle and I am President of Hjelle Enterprises, Incorporated. I am also the managing general partner of Glacier Fish Company, a partnership that operates the factory trawler Northern Glacier. I have spent the past 33 years in the U.S. fishing industry, and the last 7 in the developing bottom fishery.

I am grateful for the opportunity to appear before your committee to present testimony concerning illegal fishing by foreign vessels in the U.S. EEZ off Alaska, and fishing in the international waters of the Bering Sea, the so-called donut hole.

During the December North Pacific Fishery Management Council meeting, I became increasingly disturbed by the distribution of foreign vessel sightings made by the U.S. Coast Guard and also a

report I got from Mr. Paul Fuhs, Mayor of Dutch Harbor that had been put together for the Southwest Alaska Municipal Conference.

First, the U.S. Coast Guard report showed a concentration of foreign fishing vessels during the later part of 1987 in a region where no foreign catch was authorized. There was no joint venture being conducted in the area at that time.

Second, the report of Mr. Fuhs, which is a compilation of National Marine Fishery Service transshipment-at-sea data, indicated to me that the catch required to produce the reported amounts of finished product greatly exceeded that reported catch for the U.S. EEZ of the Bering Sea, as well as that reported for the donut area.

My concern was further heightened by the various industry reports of substantial quantities of fish normally taken in the U.S. EEZ finding its way into the Japanese marketplace.

The combination of these factors led me to encourage various elements of the U.S. industry about the serious problem we were facing, and action the industry should contemplate taking. Early in January 1988, representatives of the U.S. fishing industry held meetings to explore course of action it might take to investigate what appeared to me to be blatant illegal fishing by foreign fishing vessels within the U.S. zone. It was decided in the very small group that we would charter an aircraft and go and take a look for ourselves.

Mr. Chairman, I am not going to take up the committee's time by going over that, but my statement has been already turned over to the National Marine Fishery Service enforcement division, but it will be part of my testimony.[3]

Senator ADAMS. Without objection, it will be included as part of your testimony, Mr. Hjelle.

Mr. HJELLE. Thank you.

My presence here, Mr. Chairman, is not to make a big issue of the overflight, but rather in the end to suggest some remedies to a bad situation.

Illegal fishing by foreign nations has been a problem in our waters dating back to the late 1960s and in some fisheries, even long before. The real issue is the potential extent of these types of activities and their consequences to fisheries management, as well as the potential economic loss to the U.S. fishing industry. But I think worst of all is the serious impact it will have on the resource and, gentlemen, that could spell disaster.

I think we have adequate evidence to support our claim that we are faced with a serious problem which we need the help of Congress, as well as the Administration. It is estimated that the quantities of fish being illegally harvested in 1986 alone is in excess of 3 million metric tons of round fish. That is roughly 750,000 metric tons of finished product. And maybe to put it in figures we are all a little more familiar with, it amounts to 1,650,000,000 pounds. If you put a wholesale price on that, you are talking about $2 billion U.S. dollars. And I have a table also included in my testimony that will show that.

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[3] The material was not reproducible and is in the Committee files.

This year the North Pacific Fishery Management Council finally Americanized the harvesting side of our fishing industry. And we are proud of finally achieving one of the primary goals of the Magnuson Act, but this is a hollow victory if these illegal acts are allowed to continue.

I have seen many fisheries devastated around the world, even some here in our backyard, either by poor management or noncompliance by nations fishing off of someone else's shores. Gentlemen, let's hope that is not the case here.

What can be done to stop the illegal harvest and account for fishing in the donut area?

Immediately, we must:

Demand that the Japanese Government turn over those vessels identified as fishing illegally inside the U.S. EEZ.

Increase Coast Guard patrols, especially surface vessels and employ the most effective means available to stop this piracy in our waters (we have the technology).

Prohibit foreign fishing vessels from entering the U.S. EEZ with product in their holds.

Use whatever means necessary to let all those nations that are fishing in international waters adjacent to our U.S. EEZ know, that we are no longer going to tolerate their illegal conduct in U.S. waters. Regulation should not only apply to our own fishermen but to fishermen of other nations, as well.

Mr. Chairman, we look to you and your fellow Senators for help.

Senator ADAMS. Thank you, Mr. Hjelle.

Mr. Evans, you wished to make a further statement after Mr. Hjelle's testimony.

We appreciate your testimony, Mr. Hjelle. It is not only articulate, but from someone a long time in the business. And we appreciate your being here to give us that experience which many of us have seen happen too often throughout the world.

Mr. Evans.

Mr. EVANS. Thank you, Senator Adams.

Just to pick up from what Sam has said, I would like to present why this issue is so important to us. As you know, I represent the factory trawler segment of this new American industry, and that is only a segment. It is an important part of it, but we're seeing development not only at sea, but on shore in Alaska. And we are seeing a lot of infrastructure development both in Alaska and in the Washington area as well.

To state what is going on in our segment of the industry, presently we have 30 factory trawlers. That is from one back in 1980. Our capital investment is $350 million. We are employing 2,500 people in the factory trawler segment right now, and that is an increase of 2,500 people from seven years ago. At full utilization, we will have 80 to 100 vessels. We will have an investment of over $1 billion. We will be employing 8,000, maybe 10,000 people with annual sales over $1 billion.

And this is what this Americanization process that the Magnuson Act called for is all about. And it is remarkable, but we're doing it. And there were a lot of people who said that it wasn't going to happen. So, of course, we are very proud of what we have achieved to date.

And the fact that we now see that Alaska pollock resource, which is the mainstay of this development, being stolen and overexploited is the reason that we are here today. It can't go on. The Federal Government as the steward of this resource has to take the action to gain control to give our quotas and give our management some integrity, integrity that we don't see now in the present process. So, we need a change.

If this doesn't happen, in the short term we are going to see a thinning of the Alaska pollock stock which is going to lower our catch rates, lower our catch per unit of effort, and that is going to spell economic disaster for the developing fishery because it is the Bering Sea which is the most abundant fisheries resource in the world today. And it is the priority that the Magnuson Act has given us that is building this industry. And all of the fishing nations that have been exploiting that fishery for years are being displaced. And they are trying to get back in either through getting the quotas increased, or as we have seen, by cheating.

So, we simply have to seal that border and just give the whole process some integrity. And if we can't do it, we all should know about that because the worst thing we can do is set those quotas too high causing a diminishment of those stocks. And we think that we are well on our way to doing that right now unless some changes are made.

As for recommended solutions, I certainly want to endorse the proposal of Senator Stevens to find a way to declare a moratorium on fishing in this area pending a solution to what is going on there now.

Most Americans view the Canadians and the Mexicans as our neighbors, but as the people in the northwest and Alaska know, the Soviets are our neighbors. And we share a common resource. We are both motivated to protect that resource We have got the makings of an agreement. So, it is simply a matter of having the will to sit down with the Soviets and establish a regime that assures both nations that we have got control over what is going on out there. I think it is easy to do because, as you can see, both countries are motivated.

On the domestic side, we simply have to alter the regime slightly to give the Coast Guard an ability to prosecute violators. Right now with this regime requiring that they find the vessels fishing, they are having great difficulty in bringing cases. If we had something like a check-in/check-out system where any fishing vessel would have to notify the government that it was entering these fishing waters, I think that would go a long way toward resolving the problems that the Coast Guard is presently having.

I think I will stop right now. But once again, we certainly appreciate your paying attention to this matter. And we will work with you toward a resolution of it.

Senator ADAMS. Thank you, Mr. Evans, Mr. Hjelle, for your excellent testimony and for the evidence you've presented.

Mr. Peterson.

STATEMENT OF JOHN G. PETERSON, VICE CHAIRMAN, NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Mr. PETERSON. Thank you, Mr. Chairman and Senator Evans.

I am John Peterson, Vice Chairman of the North Pacific Fishery Council. And I certainly appreciate the opportunity of appearing here to present testimony on behalf of the council on this extremely important matter.

My testimony has been already delivered to the committee, and I will briefly summarize what has been said. I will not touch on matters of enforcement or illegal fishing. But I would like to point out that we have two serious problems to face. The first is that we must stop all illegal fishing in our zone, and we must control or stop the harvest in the donut. There seems to be some considerable agreement on that.

However, effective enforcement really does not solve the problem of uncontrolled fishing in the donut. The most reasonable scientific hypothesis indicates one stock of pollock in the Bering Sea, and fish caught in the donut are of the same stock as those caught in our zone. The council cannot provide an effective management regime without control of the harvest. As it is now, we manage the fish and the foreigners catch it.

There are several approaches to this problem that come to mind. The first is to do nothing, status quo, which is simply not acceptable.

Multilateral agreements is a second possibility, but this procedure is much too time consuming. And while the negotiations for agreement and implementation and actual compliance are going on, the unrestrained fishing in the donut continues. And the greater the harm to our resource, the longer it goes on.

I am pleased to hear that the State Department has undertaken negotiations with the Soviet Union because these stocks of pollock occur in their zone as well as ours. We have heard there are going to be problems on establishing a moratorium. But the option of bilateral agreement with the Soviets requires establishment of a fishery enforcement line plus agreed upon methods of determining the total harvest.

And then there needs to be an agreement on how that harvest is split. In other words, how much fish is there to be harvested and who gets it?

Considerable scientific information and research will be needed, and we are going to need the funds to support that.

Bilateral agreements take a lot of time. This is not going to be a simple agreement, but fishing must be stopped in the donut, and I am not sure that these negotiations will do that.

The North Pacific Council in its letter of January 25 requested the Department of State to determine the feasibility of extending unilaterally U.S. fisheries jurisdiction in the Bering Sea westward to the 1867 Convention line. Now, the Council is fully aware of the gravity of that request, understanding the problems of national security, oil and gas deposits, and the environment and perhaps other matters. But notwithstanding those concerns, to extend fisheries jurisdiction to the Convention line brings essential fisheries conservation and management to that area.

We feel that an enormous resource, and the industry dependent upon it, is at risk, and this risk is important enough to require immediate and firm action.

Existing marine boundaries and jurisdictional matters make the donut very unique, and because of these unique characteristics, the situation does not seem to fit any existing customary international law. Perhaps innovative, new international law is required in this case.

Incidentally, the Convention of 1867 was motivated in part by fisheries concerns. The Territory of Washington requested President Andrew Johnson to secure fishing rights to the Russian shores of North America. It started with a fisheries matter. In addition, it seems at the present time that the Soviet Union is abiding by that Convention line on fisheries enforcement matters, their version of the line, incidentally, not ours. And as we all know, the United States has auctioned provisional oil and gas leases in the Navarin Basin, using the Convention line as the westward boundary.

These conditions seem to provide a sufficient basis for the firm action we request; an interim but immediate extension of U.S. fisheries jurisdiction should be achieved before the end of this year, 1988, with final boundaries and management regimes to be negotiated with the Soviet Union as soon as possible. In this regard, we respectfully request that the industry and our Council be allowed to participate in these discussions in at least an advisory capacity.

To preserve the enormous fishery resources which provide essential raw material to the U.S. industry, the donut must be closed to unrestrained foreign fishing, and those resources must be managed in a wise and rational manner.

Thank you, Mr. Chairman, very much.

[The statement follows:]

STATEMENT OF JOHN PETERSON, VICE CHAIRMAN, NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Mr. Chairman, I am John Peterson, Vice Chairman of the North Pacific Fishery Management Council. I appreciate the opportunity to appear on behalf of the Council to present testimony concerning illegal fishing by foreign vessels in the Executive Economic Zone off Alaska and fishing in international waters of the Bering Sea (the Donut). Our Council is outraged over the latest incidents of illegal fishing and we are convinced that fishing in the "Donut" endangers our stocks of fish. If allowed to continue, both practices will cause serious and long-term economic damage to the domestic harvesting and processing industry.

We are facing two problems that require immediate action:

We must stop illegal fishing in our EEZ and,

We must control the harvest effort in the "Donut."

Evidence of illegal fishing in our EEZ is substantial and includes the following: the Alaska Factory Trawlers video tape, the 1982–83 documentation of a master plan by the Japanese fleet fishing in Alaskan waters to evade enforcement vessels and manipulate catch records, letters from Japanese nationals reporting illegal fishing activities, chronic industry reports of illegal fish in the Japanese marketplace and the analysis of transhipping records that seem to verify that massive overharvesting of our resources is occurring.

In response to the most recent incident filmed by AFTA we must demand the return of the guilty vessels to the U.S. for prosecution and deny permits for U.S. waters to those vessels and possibly to other vessels owned by the same companies.

Our fisheries enforcement and surveillance efforts in the Bering Sea must be improved. In this regard our Council recommends the following actions:

Place U.S. observers on all foreign fishing vessels that operate both in our EZZ and the "Donut."

Establish a check-in/check-out system to monitor hold content and transhipment activity of foreign fishing vessels.

Require naval navigation satellite systems on all foreign fishing vessels in the "Donut."

Investigate the prospect of contracting surveillance activities to the private sector.

Consult with knowledgeable members of the industry to develop monitoring and surveillance plans.

With reference to uncontrolled foreign fishing in the "Donut," the most reasonable hypothesis that can be derived from the best available scientific information indicates two stocks of pollock exist in the North Pacific: one in the Sea of Okohkst (which is West of Kasmchatka Peninsula) and the other in the Bering Sea. The Bering Sea stock is found in our EEZ and also in the "Donut" since fish seldom abide by lines drawn on charts. Fish caught in the "Donut" are of the same stocks as those caught in our EEZ. How can the Council provide an effective management regime without control of the harvest? As it is now, we manage the fish and the foreigners harvest them. It is impossible to properly conserve and manage fish stocks without having control of the entire harvest of those fish. There are four approaches to this problem that come to mind, of which two may actually be viable.

First is to do nothing, the status quo, which is not acceptable. Not only are huge economic losses sustained by our industry, but the resource itself is in jeopardy. The "Donut" simply provides a haven safe from U.S. enforcement with easy access for illicit fishing in our EEZ.

A multilateral agreement is a second possibility but this procedure is much too time consuming. It would take years to reach agreements with the nations fishing in the "Donut." It would take additional time to implement such an agreement and the chances of compliance by all participants would be very low. The longer unrestrained fishing in the "Donut" continues, the greater the harm to the resource and to our industry.

At some point bilateral negotiations with the USSR will be necessary since the Bering Sea pollock stocks also occur in their zone. Such negotiations require immediate action to control the fishing in the "Donut," but the greatest area of international waters lies on our side of the Convention line, not the Soviet side. This option of bilateral agreement with the Soviets requires the establishment of a fishery enforcement line plus agreed-upon management regimes that provide methods of determining what the total harvest should be and methods of sharing those stocks. In other words, how much is there and who get what? Considerable scientific research will be needed, and bilateral agreements that cover all of these factors take considerable time.

The NPFMC in its letter of January 25, 1988 to Secretary of State Shultz requested the Department of State to determine the feasibility of extending U.S. fisheries jurisdiction in the Bering Sea westward to the 1867 Convention Line. The council is aware of the gravity of such a move and the concerns for national security, oil and gas deposits and the environment. Notwithstanding these other concerns, to extend the provisions of the Fisheries Conservation and Management Act to the Convention Line brings essential fisheries conservation and management to that area. We feel that an enormous resource (and the industry dependent on it) is at risk, and this risk is important enough to require immediate and firm action.

Marine boundaries and jurisdictional matters are unique to the "Donut," and because of these unique conditions the situation does not seem to fit any existing customary international law. The Convention of 1867 was motivated in part by fisheries matters, the USSR apparently abides by the Convention Line on fishery enforcement matters (their version of the line, not ours) and the U.S. has auctioned provisional oil and gas leases in the Navarin Basin using the Convention Line as the westward boundry.

Perhaps an interim, but immediate, extension of the U.S. fisheries jurisdiction should be undertaken with final boundaries and management regimes to be negotiated with the USSR as soon as possible. We respectfully suggest that the industry and our Council be allowed to participate in these discussions in, at least, an advisory capacity.

To preserve the enormous fish resources which provide essential raw material to U.S. industry, the "Donut" must be closed to unrestrained fishing and those resources must be managed in a wise and rational manner.

Senator ADAMS. Thank you very much, Mr. Peterson.

Pursuant to what I announced earlier, that I at least would try to observe, we will submit most of our questions in writing, but Mr.

Hjelle, I had one question that I wanted to ask you as a veteran fisherman.

We have heard the testimony of Dr. Aron on the stocks themselves, and we are trying to focus on whether what we have got up there is a take within the donut of a stock that is moving, or if the donut is simply being used as a staging area to move in illegally into the Russian and into the U.S. zones.

Now, you have been up there a long time, and it has been a long time since I have been up there.

Give me your opinion, would you?

Mr. HJELLE. My firm belief is, Senator, that at times there might be fish going through the donut area, but for fish to be there on a consistent basis like it is on a shelf, the answer is absolutely not.

Senator ADAMS. That was my impression of it, that the fish are on the shelf and that we basically have here an illegal fishing problem, that the doughnut hole is being used as a staging area as opposed to sustaining the catch, and I am asking you this as somebody who has just been there a long time.

We will take the scientific evidence that we need also, but your concern is that you feel that it is probably a staging area.

Mr. HJELLE. Definitely.

If I may elaborate on that a little bit, the area—you see here is Dutch Harbor. I have steamed across from Dutch Harbor to the Pribilof, up through the Bering Sea since 1955. What generally happens, you lose the fish at 250, 300 fathoms, when you leave the southern edge, for about 60, 70 miles in between, in roughly 500 fathom there is nothing. You don't hit the fish again until you get up on the northern shelf in 250, 300 fathoms.

And that I have done now for years, and that is why I believe strongly, unless you get close to the continental shelf or up to Bower's Bank, you are not going to catch much fish on a consistent basis.

Senator ADAMS. Thank you, Mr. Hjelle.

Senator Stevens.

Senator STEVENS. I do not have any questions.

I think we ought to submit the questions, Mr. Chairman.

I would say thank you to those of you who undertook that private trip. As I indicated, I have used the copy of that video that I have very effectively, I think so far, and I do think there is room now for the industry itself to assess what it should be doing. We are all looking to see what the government should be doing, but I think we ought to be looking to what the industry itself should be doing now in terms of the private observer program and others as we go forward.

Thank you very much.

Senator ADAMS. Senator Evans?

Senator EVANS. Just very briefly, I would add to that, I have flown an awful lot, and I am not sure I would be that comfortable coming from 30,000 feet to 100 feet to get under a 200 foot cloud cover. It was not only a great service, but there was considerable courage involved in that kind of flight.

Let me just make one comment, and then a single observation I would like Mr. Evans to make.

I think we have a real problem in terms, as the questions of the preceding panel that you heard indicated, in accomplishing what some would want to do, either expanding our fishing zone to close the donut, or to prevent anyone from fishing inside the donut. It is simply a very tough thing to do unilaterally.

I am sure we here in Congress would be faced with an equally large group of Americans testifying in opposition to unilaterally extending our fishing zone because they would be afraid of the kind of similar action taken by South Pacific nations and South American nations in closing off further fishery to American tuna fishermen and others. So we have got some difficulties internally in terms of that kind of unilateral action.

But if as Mr. Hjelle says, this is primarily a matter of simply violations of the American zones, maybe that is where we really ought to focus. Let me ask Mr. Hjelle and Mr. Evans, if we were able to absolutely prevent any violation of the current zones, would that in essence make it so unproductive for foreign fishermen that they would cease coming?

Mr. EVANS. Senator Evans, that would be a very valuable step toward getting hold of what is going on with our pollock stocks. And perhaps it would be the solution. But the point is, we do not know, that we are dealing with just a vast quantity of unknowns here, and I certainly would not want to let it rest that that would solve the problem.

We think we need to get some control over the donut hole as well.

Senator EVANS. And therein lies—the first may be easier or faster to do than the second.

Would you, just for the record, point to and explain on the one chart with the colored donut hole what the red dots represent because I think that is—what it seems to me, is a pretty clear evidence of just how frequently others are fishing and where they are fishing.

Mr. EVANS. Yes, Senator.

In fact, you have seen this chart before.

Senator EVANS. I sure have.

Mr. EVANS. And it is somewhat tattered at this point because we have been carrying it around quite a bit, but this, the red dots were plotted by Sam, and these are the sightings made by the Coast Guard from July of 1987 through November of 1987. Some of those sightings may be foreign fishing vessels that are appropriately within the zone for legal purposes, but——

Senator EVANS. Each red dot is a foreign fishing vessel?

Mr. EVANS. That is right.

Senator EVANS. Sighted by the Coast Guard.

Mr. EVANS. That is right.

But as you will note, particularly in the northeast area there, they seem to follow the ridge or the contour line of the ridge which is the obvious valuable fishing grounds, and I think that is what caused Sam to start talking to people and here we are today.

Senator EVANS. What would the depths generally be along that ridge to the northeast and again, the similar ridge just south of the donut?

Mr. EVANS. I will let the fisherman answer.

Mr. HJELLE. This is the 100 fathom curve right there. The donut area itself lies in excess of 2,000 fathoms, and I never found any bottom fish in 2,000 fathoms myself. I ran across the gulf from Cape Flannery, Cape Scott, all the way to the last departure in Alaska, which is Cape Spencer, and in later years, we have pretty good fathommeters which reaches into 1,000, 1,500 fathoms, we just let them run. You know, we are always interested to see what there might be. But I think mostly what you will find out there in 2000 fathoms of water and you will *not* find it there, in the Bering Sea is tuna. Tuna does not go that far north. It will go up to halfway between Hawaii and the Aleutian Islands, but I have never seen any bottom fish of any quantities at all that you could sustain a commercial fishery in those waters, or in that deep of waters anyplace I have been.

And that to me means that if you are not in on Bower's Bank and in on the eastern edge, which is the traditional fishing ground for all these nations, they are not going to catch much fish. The scientists even claim that the fish at certain times of the year like November, December, January, February, March, they are down along off of the Bogoslof, Unimak pass area. Then they move up to between Newingham and Pribilof in March, April, May, June, and then they head out between the Pribilof and St. Matthews and clear up into Russian waters, and there they peak out in the late summer and early fall like September, October, November. And I think what you might find out in the donut area is the "reverse migration" back down south again where you probably at times, when you are close enough to the edge, will get some fishing.

But as you can see—there is no sightings at all in the northern parts of the donut area.

Senator EVANS. Not a million metric tons.

Mr. HJELLE. In the donut area itself, for the most part of it you do not see any sightings, at all only off of Bower Ridge, and on the east side of the donut area up against the continental shelf in the U.S. EEZ.

Senator EVANS. Thank you.

Thank you, Mr. Chairman.

Senator ADAMS. Thank you very much.

I want to express the appreciation of myself and the other members of the committee for what you have, the evidence that you have brought before us, and the statements that you have made. They are very important. Many of us have seen many of these before, but we wanted to be certain that the public understood what the concern was, and you have articulated it very well.

And the Chairman and the other members of the committee want to thank you for it.

Thank you very much.

The next panel will consist of Mr. Steven Pennoyer, State of Alaska, Special Assistant for International Fisheries with the Alaska Department of Fish and Game; Mr. Henry Mitchell, Executive Director of the Bering Sea Fishermen's Association.

Welcome, gentlemen. We appreciate your testimony.

Mr. Pennoyer?

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STATEMENT OF STEVEN PENNOYER, STATE OF ALASKA, SPECIAL ASSISTANT FOR INTERNATIONAL FISHERIES WITH THE ALASKA DEPARTMENT OF FISH AND GAME

Mr. PENNOYER. Thank you, Mr. Chairman.

I am Steve Pennoyer with the Alaska Department of Fish and Game, representing the State of Alaska at these hearings.

We have submitted detailed testimony. I will try to go through and summarize my remarks, try not to repeat things you have already heard, and maybe bring up a few points you have not, rather than go into detail to stay within your time limits.

Senator ADAMS. We would appreciate it. Both of your statements will be included in full in the record, and we are going to, as I say, try to observe the five minute rule so that we can have as many people as possible testify so that my colleagues can hear it.

Mr. PENNOYER.

Mr. PENNOYER. Thank you, Mr. Chairman.

Fisheries are a very significant part of the lifestyle, economy, and even the basic sustenance of life in Alaska. We appreciate the opportunity to testify regarding the impacts of high seas fishing activities both outside and within our zone on those resources and our economy.

The first and most urgent issue, obviously, that you have discussed here is the expanding pollock fishery in the donut hole. You have heard quite a bit of scientific information and public testimony about the probable impacts of that fishery. Suffice to say, we concur.

It is our belief, too, that the stocks are interrelated and that even a legal fishery in the zone is going to impact the harvest of pollock by U.S. fishermen, and perhaps in the long term adversely affect the viability of the resource.

The illegal fishing that has been sighted by the efforts of the Coast Guard and the industry obviously tells us that these impacts are now occurring.

One area that has not been covered in detail, but has been mentioned is the possible impacts of by-catch, particularly of salmon and herring. We know that Chinook salmon are very susceptible to trawl harvest. In the early 1980s, the Japanese trawl fisheries incidentally took over 100,000 Chinook in each of two years in the Bering Sea before the North Pacific Fisheries Management Council started to strictly regulate that activity and brought the harvest down.

Additionally, in the donut hole chinook stocks are overwhelmingly, probably 80 to 90 percent of western Alaska and Yukon, Canada origin. The remaining balance of the Chinook stocks that are found in that area are from the Soviet Union.

Another concern we have is for western Alaskan herring. The western Alaskan herring stocks overwinter in the central Bering Sea. While the best data indicates that they largely overwinter along the shelf edge, an exact distribution by month is not known. Certainly the problems with illegal fishing give us concern that western Alaska herring stocks, which are susceptible to trawl harvest, are being harvested.

In addition to the economic reallocation problem, these two stocks are suffering from conservation problems. Western Alaska herring stocks are down. Next year, in the major Bristol Bay fishery, we may have to reduce that fishery severely. In 1989, if no recruitment is evident, we might even have to close it. This is an essential fishery to the economy of western Alaska.

In the case of Chinook, some of the Kuskokwim River stocks and the major upriver Yukon stocks are also suffering from conservation problems. The Department has instituted very restrictive management measures on both these stocks. Any incidental or directed, legal or illegal by-catch of Chinook and herring would be of very great concern to the State of Alaska.

You have heard a number of solutions in dealing with this fishing effort. We do support the testimony by Mr. John Peterson and the North Pacific Council in terms of the need to get on with some type of extension of jurisdiction, by unilateral action or bilateral agreement to get control over the donut. We applaud the efforts that are now ongoing in talks with the Soviet Union and hope that they can be brought to some fruition in the near future.

We also are concerned with the need for enforcement, but we are not technological experts. We have heard a lot of discussion since we have been here on satellite navigation systems, on transponders, on long range radar. We applaud the comment we heard earlier that it is the time to get together a panel of experts from agencies and industry, if necessary, to deal with this issue. It is not just relevant to the donut. This addresses the whole range of enforcement issues and location of fishing vessels across the entire North Pacific, throughout the Japanese squid and salmon fisheries as well.

So a technological solution, if we can come up with it, would be applicable in many situations, and extremely valuable to trying to get a handle on these fisheries.

We support the need for increasing the revenues available to the Coast Guard for aerial and surface patrol. We do not believe it is desirable to take the effort out of other areas in the North Pacific where we also have problems with illegal fishing such as the salmon and squid areas.

We do believe that there is a need for observer data. Dr. Aron mentioned that some observer data was available, but that observer data does not cover sufficient time and area to give us satisfaction that impacts on salmon and herring stocks not occurring. So for both biological data on pollock and the by-catch question we think that increased observer coverage is necessary.

We think our concerns for North American salmon and herring stocks alone should justify, under GIFA relationships with these countries, the ability to put observers out there.

We concur with the need for more research on pollock stocks and hope that it can be funded. We are looking forward to seeing Dr. Aron's proposal as much as you are.

Mr. Chairman, while we recognize that the donut is the focus of the hearing and is certainly one of the urgent issues we have to deal with, the State feels we would be remiss if we did not in passing at least mention two other areas of fisheries beyond our zone that are still giving us many of the same type of problems that you

are facing here in the donut. These are ongoing problems. I am referring to the directed salmon fisheries of Japan and to the high seas squid fisheries, I will not go into vast detail on the data and problems. Suffice to say, in the directed high seas salmon fishery of Japan, while we have reduced the interceptions of North American salmon greatly in the renegotiations of INPFC in 1978, and then again in 1985–1986, they still remain unacceptably high.

We estimate that perhaps 2 million fish a year are still being lost to those interceptions, the bulk of it coming out of western Alaska where the economy is one of the poorest in the nation, and the average fishing income for a fisherman is about $8,000, excluding Bristol Bay.

We have a regime under INPFC currently in place. There is a need for further negotiation to improve the interception problem. We were very pleased to hear the statements of Senator Stevens that, if the situation in this fishery gets out of control, strong action would be taken. This is a critical period because the Japanese have threatened to both get out of INPFC, to cease reporting and research in these fisheries, and to cease enforcement of the eastward boundaries on these fisheries. We know in the past, without enforcement, their land-based fishery has fished as far to the east as Kodiak Island, and they certainly took vast numbers of North American salmon, impacting the whole West Coast and not just Alaska.

These threats are stemming from court action blocking the issuance of a marine mammal permit for fishing in our zone. We do not think threats against U.S. salmon stocks and the permit can be tied together in that fashion.

This concern is also extended to the squid fisheries. During your drift net legislation hearings, you heard a lot about the 700 plus vessel squid fleet and the possible problems it is going to create or is creating for North American salmon.

We continue to get intelligence from Taiwan that the problem of illegal salmon fishing is still going on. We continue to see problems with enforcement of the squid fishing northern boundaries by the Japanese. We believe the squid regulatory and observer negotiations should go on under the provisions of your drift net legislation.

Mr. Chairman, I will draw this to a close with a brief summary. We see the same interacting problems in all these cases. We think if we can come up with a solution for enforcement for the donut hole they would be applicable to the squid fisheries and the high seas salmon fisheries of Japan. We believe that the questions on the enforcement, monitoring, and dealing with our jurisdiction to control the activities of nations fishing beyond our zone are the same across all of these fisheries. We would urge a comprehensive approach to these that lays out the problems and the possible solutions so that the impacts of a solution in one area can be evaluated in the others.

We think the issues are interrelated, and that our relationships with the Soviet Union and Japan cut across all of these.

We are ready to help work on that type of a comprehensive approach.

Thank you.

[The statement follows:]

TESTIMONY OF STEVEN PENNOYER
STATE OF ALASKA
BEFORE THE NATIONAL OCEAN POLICY STUDY AND
SENATE COMMERCE, SCIENCE AND TRANSPORTATION COMMITTEE
MARCH 16, 1988

Introduction

Mr. Chairman, I am Steven Pennoyer, Special Assistant for International Fisheries with the Alaska Department of Fish and Game. I am here to present testimony on the behalf of the State of Alaska regarding foreign fishing activities in the North Pacific Ocean and Bering Sea outside the United States Exclusive Economic Zone (EEZ). Conservation and management problems for U.S. stocks are being created by the groundfish, salmon and squid fleets of Japan and other foreign nations. We have great concern with the impacts of these fisheries on the economy of the citizens of our state and appreciate the opportunity to present testimony regarding actions which we believe must be taken to minimize these impacts.

In order for you to understand the significance of these issues to Alaska, let me give you some background. Fisheries are more important than just the $890,000,000 ex-vessel value paid to Alaskan fishermen in 1986 or the over $1,500,000,000 wholesale value to processors would indicate. Commercial fisheries harvests of salmon, shellfish, halibut, herring and groundfish are nearly twice that of the rest of the Pacific Coast states combined. In a state with little or no manufacturing-base economy, with over 50,000 participants the commercial fishing industry is one of the largest private sector employers and generates over 1/4 of the private sector produced income in Alaska. In one major region of the state over 90 percent of the private sector income is generated by commercial fishing and many of our coastal communities are nearly entirely dependent on commercial fisheries for cash income. The recreational fishing industry in Alaska is also a major contributor to the economy in many areas of the state. In Bristol Bay alone, the sport fishing industry is estimated to generate some $50,000,000 in annual income. Contributions to the regional economy of southcentral Alaska by recreational fishermen were estimated at over $100,000,000 in a recent study. While no good statewide data exists for the total employment in this industry or revenue generated, it is obviously very significant.

Over 26,000,000 pounds of fish are caught statewide for subsistence purposes, and in fact, in many rural areas of the state the subsistence harvest in value probably exceeds the importance of the commercial fisheries to the local economy. Many communities would not be able to exist in rural Alaska without the noncommercial harvest of fish and game. A minimal estimate of the replacement value of the salmon caught statewide by subsistence fishermen would be $50,000,000. Given the fact that in many areas (particularly in western Alaska) the economy in terms of cash income is one of the poorest in the United States, a true valuation of the importance of the subsistence fishery is not even possible. In 1985 alone nearly 15,000 families participated in subsistence fisheries statewide.

As you can see, fisheries are a significant part of Alaska's economy, lifestyle, and the basic sustenance of life in many areas. The importance attached to this activity is demonstrated by the amount of human and fiscal resources the state puts into the management and enhancement of these fisheries resources. However, although the Alaska Department of Fish and Game and the Board of Fisheries regulate the conservation and enhancement of the fisheries resources within the state's borders and in some cases beyond, these resources are subject to a number of external influences which are controlled, managed, studied, or at least bounded by a whole series of treaties, agreements, commissions, councils, and panels. Alaska's unique status as a state bounded on one side by Canada and on the other by the maritime domain of the Soviet Union, its positioning astride the fisheries-rich waters of the Bering Sea and North Pacific Ocean, its immense coastline (more than the rest of the U.S. combined), and continental shelf area (three time the rest of the U.S.) have all contributed to the need for Alaskans to play in international fisheries arenas as a matter of self-defense and economic advantage. Foreign fleets have roamed the waters off Alaska's coast in great numbers since prior to statehood, and over this period have taken immense quantities of crab, groundfish, and salmon. The thrust of state and national policy has been to transfer these harvests back to the U.S. fishing public. The methods by which this has been accomplished have varied according to species, fleets, and areas involved and are far from over. Impacts of directed and incidental harvests by foreign nations on the Alaskan economy and the conservation of fisheries resources important to Alaska continue, and in some cases have even expanded.

Groundfish

With the exception of early fisheries for cod and halibut, the majority of groundfish species off Alaska were underutilized until the massive incursion of foreign fleets into the Bering Sea and North Pacific starting in the late 1950s and rapidly expanding in the 1960s. The total groundfish harvest of these fleets during the period 1960 through 1976, when the U.S. claimed jurisdiction to the waters 200 miles off its coast, was over 40,000,000,000 pounds. In the process of harvesting these groundfish millions of pounds of crab, halibut, and salmon were also taken and retained or discarded. With the coming of the Magnuson Fisheries Conservation and Management Act and the formation of the regional council system, the U.S. has been in a position to start reversing the worst excesses of these foreign fleets and alternatively start to transfer the benefits to the U.S. fishermen. In recent years, that transfer has escalated. In 1987 there were practically no groundfish allocations directed at foreign fisheries. Most was directed to joint ventures with substantial proportions allocated for domestic harvesting and processing.

Incidental harvest impacts on crab, halibut and salmon were also reduced as the foreign fisheries were brought under control. These by-catches are still being strictly managed in the joint venture fisheries. This level of management must continue both in the new domestic fisheries and in other recently expanded foreign groundfish fisheries. The importance of this control can be illustrated by the

fact that in one year alone the Japanese trawl fisheries in the Bering Sea took about 120,000 chinook salmon incidentally. These catches were reduced by actions of the state, the North Pacific Fishery Management Council, and concerned western Alaska fishermen through a strict program of quotas, monitoring, and enforcement.

We are particularly concerned with the recent rapid expansion of unmonitored fishing effort for pollock in the international waters of the Central Bering Sea. While the magnitude of these catches cannot be accurately substantiated, their growth is coincidental with the displacement of foreign fleets from our EEZ. The reported magnitude of these catches now rivals the total allowable catch in our zone. Several hypotheses have been advanced regarding the relationship of the stocks in this area to the stocks in the U.S. and USSR 200-mile zones. However, adequate population surveys, tagging and migration data, or data on the biological composition of the catch do not exist to quantify the effects of massive removals of fish from this "donut hole" area on domestic pollock populations. There is, however, a distinct possibility that this unregulated harvest will impact eastern Bering Sea pollock populations.

While there may be a lack of information regarding the biological relationship of pollock stocks in Bering Sea international waters to those in our zone, recent observations of illegal fishing by Japanese vessels and the current lack of enforcement is this area further lead us to believe that a substantial portion of this catch could be coming from stocks already considered fully utilized by domestic fishermen.

Due to the lack of monitoring of catches in this area there is no estimate of the incidence of salmon or herring by-catches in this newly expanded fishery. We do know that chinook salmon can be taken in significant numbers in trawl fisheries and we know that chinook salmon found in the donut hole area are overwhelmingly western Alaskan in origin. We also know that western Alaskan herring stocks, primarily from Bristol Bay, overwinter in the Central Bering Sea and are susceptible to both directed and incidental harvest by trawl gear. While this herring population is more generally assumed to winter on the shelf edge, exact distribution by month is not know and the possibility of significant illegal fishing in our zone increases our concerns for possible impact on our stocks.

Currently severe conservation problems exist with western Alaska herring stocks and some stocks of western Alaska chinook salmon. The department anticipates a very reduced harvest in the very important Bristol Bay herring fishery in 1988 and perhaps a very low level of harvest or even closure in 1989 if the stocks do not show signs of improved recruitment. Restrictive management actions are also anticipated for Kuskokwim River chinook salmon and upriver Yukon chinook stocks. Harvest of these stocks either incidentally or in directed fisheries would have severe economic and conservation impacts.

We believe that there is vast potential for damage to both our domestic groundfish stocks and to salmon and herring populations which are of considerable economic importance to Alaskan residents, particularly in western Alaska. We believe several things need to be done to alleviate these concerns:

1. Demand improved Japanese enforcement and monitoring of their fleets operating in the international waters of the Bering Sea. The Government of Japan has stated they will require installation of naval navigation satellite system devices on all trawl vessels operating in international waters and submission of records. This requirement should be formally agreed to and the U.S. given access to these records. Adequate patrol vessel coverage should also be sought. Similar requests should also be made to other nations fishing in this area.

2. Increase U.S. Coast Guard cutter and aerial patrols of the boundary with the U.S. EEZ without detracting from current efforts regarding the high seas salmon or squid fleets.

3. Immediately seek observer coverage on foreign vessels to monitor salmon and other species by-catch and the composition of the directed catch. These observers should be a requirement of the Governing International Fishery Agreement (GIFA) with the participating countries based on Magnuson Act concerns for Alaskan salmon and herring stocks and possible presence of U.S. groundfish stocks.

4. Continue to pursue the feasibility of extension of U.S. jurisdiction to management of resources in this area unilaterally or in cooperation with the USSR. Initiatives with the USSR regarding this area already in progress should be brought to conclusion as soon as possible.

5. Fund adequate research to determine stock composition and migration studies on pollock in this area.

Directed Foreign Salmon Fisheries

We remain concerned with the activities of the directed Japanese high seas salmon fisheries in the Bering Sea and North Pacific Ocean. While the size of these fleets and their impacts on Alaskan salmon stocks have been reduced dramatically from the era of the 1950s, 60s and 70s by the renegotiation of the International North Pacific Fisheries Convention in 1978 and again in 1985 from losses as great as 10,000,000 salmon per year to probably less than 2,000,000, their intereeptions remain unacceptably high. This is especially true since the bulk of this impact falls on the economically depressed areas of western Alaska where the average annual cash income per fisherman is less than $8,000.

Ultimately, we remain committed to seeing an end to this wasteful practice. The high seas salmon fisheries harvest a mixture of stocks that defies any form of management for optimum yield for individual runs. These fisheries engender a massive wastage of fish due to dead drop-out from gill nets which may equal reported catch. These fleets also harvest immature fish well before they gain full body weight. For example, a chinook salmon caught on the high seas averages about 6 pounds whereas inshore it would weight approximately 20 pounds in our fisheries.

Currently, litigation regarding the issuance of a marine mammal permit to the Japanese for their high seas salmon mothership fishery operation in our zone may result in the termination of that fishery, at least in the 1988 season. While we are certainly in favor of reduction in Japanese fishing in areas where they intercept North American salmon, we are concerned with the U.S. response to threats currently being made by Japan as to actions which will be taken by their government and fleets if access to our zone is blocked by court action. They have told the state and others that:

1. They will withdraw from the INPFC perhaps without the one year's required notice. This would lead to elimination of the eastern boundaries on their fleets in the North Pacific and Central Bering Sea and would end enforcement by Japan of restrictions on eastern movement of their fleets. In the past even with the lines in place, Japanese landbased vessels were commonly found in violation of these boundaries due to lack of enforcement. Simple cessation of enforcement could result in a dramatic increase in North American salmon interceptions.

2. Cooperation on research and data collection would cease including reporting of catch and effort by these fleets.

3. Current negotiated agreements to supply even a minimally acceptable level of observer coverage in their squid fleet operations will be cancelled.

4. Plans to improve enforcement of their domestic regulations to keep the squid fleets out of northern salmon inhabited waters will be cancelled and they may even withdraw bans on the import of Taiwan-caught salmon into Japan.

The potential damage to high value, fully utilized North American salmon resources is far too great to allow these threats to go unchallenged. We feel that a contingency plan is required to control high seas salmon interceptions under whatever scenario evolves as a result of the court challenge. We believe that the U.S. response should include:

1. Immediate strong presentations on the illegality of any abrogation/withdrawal from INPFC with less than a year's notice by any of the contracting parties.

2. A strong statement responding to the threat of fishing farther to the east by directed salmon fisheries in areas of known and agreed concentration of North American salmon which makes it clear that this is not acceptable under the Magnuson Act. The U.S. should state its intent to enforce the provisions of the Act on those fisheries in the event of unilateral movement eastward.

3. Move as soon as possible toward an agreement with the Soviet Union on how best to control interceptions of Soviet and U.S. salmon stocks which are mixed in the Japanese mothership and landbased fisheries.

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Squid Drift Net Fisheries

As if the high seas directed salmon fisheries were not enough, there has been a whole new development in the North Pacific Ocean that threaten our salmon stocks. The explosion of Japanese, Korean, and Taiwanese squid fisheries in an area of the North Pacific larger than the continental United States has raised severe concerns about the impact these fleets may be having on North American salmon resources. These fleets consist of over 700 vessels fishing nearly 10,000 miles of gillnet daily. These gillnets are of a mesh which will catch and retain salmon. Their activities are largely unmonitored and where regulations by the nation conducting the fishery exist to control fishing activities they are not enforced. In the case of Korea, we are not sure there is any meaningful regulations of their squid fleet.

We recognize that these drift net fisheries have been the subject of considerable congressional debate and the passage of recent drift net legislation. We applaud such initiatives but are still very concerned as to their effectiveness. We continue to receive intelligence that Taiwan at least is marketing significant quantities of chum, pink and coho salmon and we know from observations over the past two seasons that even Japan, which apparently to date has discouraged the commercialization of salmon by their squid fleet, has done a very poor job of enforcing their own boundary restrictions on this fleet to keep them out of colder, salmon occupied waters. Efforts to increase knowledge of harvest and by-catch at a technical level have also not been especially successful. We know that previous attempts to increase observer coverage on these fleets have met with very little success. We are extremely concerned that the Japanese agreement to increase observer coverage and enforcement of existing regulations in their own fleet may be voided if the INPFC regime is terminated and there is no additional initiative.

We believe threats by Japan to link their marine mammal permit to squid fishery research and enforcement are inappropriate. We feel that every effort should be made to bring these fisheries under control through the GIFA process and implementing the new drift net legislation. We believe that current talks with the Soviet Union leading to establishment of multilateral scientific and management agreements regarding these fisheries should proceed as quickly as possible.

Summary

It is obvious to us that all of these issues regarding high seas fisheries beyond our zone are interrelated. There is a commonality in resource impacts, the players involved, and the desired solutions in the "donut hole," high seas salmon and squid issues. In each case, we are concerned about a current or potential lack of data, observers and monitoring. In each case we are concerned about enforcement. In each case we are trying to find methods to influence the activities of foreign nations in areas outside the zone of direct U.S. jurisdiction. The central players in each of these issues are the Soviet Union, Japan and the U.S. with involvement from Taiwan and Korea.

The State of Alaska strongly concurs with the initiation of discussions with the Soviet Union and intends to actively participate in the development of a joint fisheries policy for the Bering Sea and North Pacific Ocean. We have also supported the formation of a multilateral research organization for North Pacific Ocean fisheries. We have suggested some courses of action to follow in each of the major issue areas, but we remain concerned that initiatives like the INPFC and related negotiations are being pursued independently when in fast they are all interconnected. We urge that a comprehensive program be developed to pursue all the U.S. fisheries concerns in the international waters of the North Pacific Ocean and Bering Sea. The State of Alaska is prepared to enter into discussion of this type of program with the affected user groups, the North Pacific Fishery Management Council, the appropriate agencies of the federal government, this committee and the Congress.

Senator ADAMS. Thank you, Mr. Pennoyer.
Mr. Mitchell.

STATEMENT OF HENRY MITCHELL, EXECUTIVE DIRECTOR, BERING SEA FISHERMEN'S ASSOCIATION

Mr. MITCHELL. Chairman Adams, members of the committee, Senator Stevens, my name is Henry Mitchell. I am the Executive Director of the Bering Sea Fishermen's Association. We represent approximately 1,500 commercial fishermen in Alaska, from Bristol Bay and on up the coast to Kotzebue. Our membership in some cases are very small boat skip fishermen with limited incomes to individuals who actually reside in your State, Senator Adams and Senator Evans, who fish in Bristol Bay both for salmon and herring.

We are particularly concerned not only with the pollock resource. We feel that measures need to be taken to ensure the healthiness of that population because it is important not only to the commercial fishermen of Alaska and Washington State and to the nation, but also to provide for a healthy ecosystem because marine mammals are dependent upon those also, and those have very serious implications both for our people in western Alaska who utilize those as a food resource, but also in terms of the mandates of the Marine Mammal Protection Act which, of course, does have or will have effects in relation to fisheries.

We very strongly know from past information that in the winter months, in the legal fisheries that were conducted when the Japanese dominated the fishery within our zone, that large numbers of herring and king salmon of western Alaska origin were caught, and we suspect and have for many years, and have testified to the North Pacific Council that in fact the large numbers of fish that we believe that were being caught or reported in the donut were in fact caught from our zone.

Knowing that, we know that there is a conservation problem developing not only on pollock but also on herring.

Mr. Pennoyer, with over 20 years of experience with the Department of Fish and Game, has told you that. I am not going to go into those details.

I am a member of the council. I would strongly recommend that a very comprehensive bilateral be explored with the Soviet Union. Those stocks with their pollock, herring and salmon are basically

the stocks of those nations. There may be small numbers of Japanese chum salmon in the donut area during certain months, but primarily those stocks are from the coastal states.

We believe that long-term management and concern for our resources dictates joint management by the United States and Russia.

Additionally, we also feel at this point that the Department of Commerce and State Department through GIFA can require certain things of nations who are allowed to participate either through direct fishing or processing in our zone.

Even though the council took the historic action of not allowing for any TALFF fisheries, which are foreign-directed fisheries in our zone for this year, there still remains a considerable presence of both Japanese processing and Korean processing industry who are taking deliveries from our domestic fishermen, who are primarily from Washington State but also from Alaska.

It is important for their benefit that the conservation regime be expanded. That resource will not be healthy. The council, I think unless something is done, is going to have to consider taking the numbers that we suspect that are being reported for the donut from the overall biomask numbers reported to us by our scientists for the area within our zone.

If that occurs, basically the United States industry is going to suffer. They have a very large capital investment, and the Japanese, Koreans and Poles who are fishing in the donut are the people who will be taking the fish. They are the ones who will benefit.

That is not right. We do not believe that the Soviets want to see that happen. So we would ask that you go forward with a bilateral and pursue the idea of using the GIFA and attaching conditions to the GIFA, such as requiring the nations or companies of boats that could fish in the zone or have a GIFA with this country to post a substantial bond.

So that in the case where you do have a Coast Guard observation flight and you see them fishing from the air, you do not have to apprehend the boat but could actually go against the bond, to require a nation like Japan perhaps to post a bond of $20 or $30 million.

It is much easier to proceed against that bond than it would be to actually apprehend that vessel. We believe that that, in conjunction with strong negotitaions with the Soviets, will lead to effective measures which will protect our fishery resources.

Thank you.

[The statement follows:]

STATEMENT OF HENRY MITCHELL, EXECUTIVE DIRECTOR, BERING SEA FISHERMEN'S ASSN.

I am Henry Mitchell, the executive director of the Bering Sea Fishermen's Association (BSFA), a commercial fishing organization representing some 1500 western Alaska residents who traditionally fish for salmon and herring from small boats. I am also a member of the North Pacific Fisheries Management Council, on the Advisory Panel of INPFC, and am on the board of directors of the United Fishermen of Alaska.

The region of Alaska BSFA represents consists of the coastline starting in the North with Nome and Kotzebue and running South through Bristol Bay. This area includes the fisheries of the Kuskokwim, Upper Yukon, Lower Yukon, Norton Sound and Kotzebue--all relatively small and primarily conducted by Alaska natives--as well as the valuable fisheries of Bristol Bay. Incomes throughout much of this area are among the lowest in the nation. Most of the commercial fishermen also conduct subsistence fisheries to provide their families with food for the year.

I am here today to testify on the problem of illegal fishing in an area of international waters in the Bering Sea called the "doughnut hole." I compliment you, Senator Adams, for responding to the call of Seattle and Alaska based fishing organizations to have in-depth review of activities in the doughnut hole. I am here to speak primarily from the perspective of the traditional Alaska small boat fishermen whose fishing activities rely heavily on sound management and conservation of fish stocks impacted by illegal activities in the doughnut hole.

Let me tell you some of the recent history of fishing in the Eastern Bering Sea. Since 1979, BSFA has testified repeatedly before the North Pacific Fisheries Management Council and the INPFC concerning the possible interception of western Alaska salmon and herring stocks in fisheries in the international waters of the doughnut and the adjacent waters of our EEZ. In 1981, knowledgeable individuals in Japan informed BSFA that in winter months illegal fishing was being conducted within our EEZ by elements of the Japanese trawl fleet near the boundary of the international waters of the doughnut. During the following year, BSFA and other entities with Alaska interests, such as PSPA, testified as to these activities and the long term consequences to the health of the salmon and herring stocks.

Although BSFA had repeatedly pointed out to our Coast Guard that the Japanese were likely receiving advance notificiation of any American enforcement action, through some undisclosed advanced surveillance system, the Coast Guard

consistently took the position that there was no substantive basis for our allegations. In fact, there was evidence of fishing activity because during winter months in Japanese markets there were substantial amounts of Eastern Bering Sea herring for sale. The herring was prime winter herring, with high oil content obviously freshly caught. No such product is available from American fishing operations at that time of year.

Now, let me tell you why this is so important to the small boat herring and salmon fishermen of western Alaska. All the individual herring stocks from the western Alaska coast congregate during the winter months in an area northwest of the Pribiloff Islands in the Eastern Bering Sea. Extremely large harvests of herring during the 1950's and 1960's by the Japanese and Russians depleted the Eastern Bering Sea resource and reduced it to approximately one-tenth of its former biomass. Subsistence users in villages such as Tooksook and Tununak were unable to obtain enough herring in the 1970's to sustain themselves. To give you a little perspective, each villager on average continues to consume over 300 pounds of dried herring a year. Failure to obtain this source of food has severe sociological, economic and psychological affects on village lifestyles. In fact, the villagers had to sue our government in federal district court to control the foreign and domestic directed trawl harvest on herring in the Eastern Bering Sea in order to protect their subsistence harvest.

We have been telling our story to the North Pacific Council since 1984. Basically, we have testified that there was a large and ever-increasing illegal fishing operation conducted within our EEZ by Japan, in particular, and other nations. Their harvest, composed primarily of pollock (of significant importance to the Seattle-based fleets), contained significant amounts of herring and, we believe salmon, known to have been caught by the Japanese trawl fishery in past years (information available from MNMFS observer data). In fact, in 1985, I asserted that the pollock harvest by Japan alone in the doughnut area amounted to some 500,000 tons. This information was based on reliable sources within Japan. When asked about these reports of harvest levels at Council meetings, Japanese government officials would provide no information whatsoever, and our government officials claimed that the Japanese take could be no more than 50,000 tons. Finally, thanks to the persistent efforts of Senator Stevens, the Japanese came forward with information to the effect that the Japanese harvest of pollock was more in the area of 700,000 tons, a figure that was absolutely astounding to our fishing industry. Based on the past method used by the Japanese to calculate their fish harvest, the 700,000 ton figure should be more like

1,000,000 to 1,500,000 tons of pollock PER YEAR.

The continuation of these fishing operations will, if unchecked, result in a serious decline in the Eastern Bering Sea pollock resource, a continuing decline in the Eastern Bering Sea herring biomass (which, according to our scientists should have begun to increase in 1980 due to the ban on the directed trawl herring fishery in our EEZ, but has not yet shown signs of increase to this date), and the continuing interception of western Alaskan salmon stocks important to the survival of the small Eskimo communities on the Bering Sea. As a matter of fact, some of the small herring fisheries in the Eastern Bering Sea may not be able to be conducted this year due to the nature of the seriousness of the decline.

So what needs to done about this? You have already heard from a number of others on various solutions to the problems of the doughnut hole. You have received guidance in the way of resolutions from entities such as the Alaska Legislature and the United Fishermen of Alaska. Basically, we feel that the United States government needs to conduct bilateral talks with the Soviet Union leading to a bilateral agreement asserting joint jurisdiction over the international waters of the Bering Sea in regard to joint management of the living resources. We believe that this is warranted by the degree of the problem and sanctioned under international law.

Similar problems face us with the directed high seas salmon fisheries of Japan and the squid driftnet fisheries of Japan, Korea and Taiwan. These fisheries are being conducted in international waters but are taking U.S. stocks of salmon and steelhead. BSFA has submitted a petition to the Department of Commerce requesting enforcement of the provisions in the Magnuson Act relating to management of anadromous species of U.S. origin. We believe that the U.S. has an obligation under the Act to protect and manage our migratory fish stocks in international waters.

Taiwan, in particular, has conducted an extensive squid, i.e. salmon driftnet fishery, with their salmon products travelling through an elaborate laundering process to disguise their nation of origin. While our traditional markets may be impacted by Taiwanese caught salmon, our greatest concern is the long-term impact on the returns of our United States-origin salmon. In October alone, the Taiwanese government issued 26 new permits for the construction of 1000-ton class driftnet vessels. This explosion onto the fisheries of the Pacific, left unchecked, must guarantee long-term management conflicts and crises for the rest of the world.

The State Department and the Commerce Department should condition the fishing permits under the Governing International Fishing Agreement (GIFA) to allow for placement of observers on all vessels operating in the North Pacific and the Bering Sea, drawing on the authority of GIFA's currently in place with nations such as Japan, Poland, Korea, the People's Republic of China. Further, those nations should agree to reduce their activities in those areas until a comprehensive fisheries management regime can be developed to protect these resources, of great importance to the world. Finally, the United States Congress has to provide for a significant increase in the management and enforcement budgets of the appropriate agencies to assure that action can and will be taken to protect the fishery resources of the North Pacific and the Bering Sea.

One further statement needs to be made, as obvious as it may seem. While we focus on the problem of the Bering Sea doughnut hole today, we must not ignore the overall situation with which we are currently faced. I am referring to the exploding driftnet fisheries of the Pacific Ocean, conducted by the Japanese, Koreans, and Taiwanese. These fisheries, while conducted under the guise of obtaining flying squid and pomfret, intercept substantial quantities of Pacific salmon bound for Canada, the United States and Russia.

Congress has begun the task by enacting driftnet legislation and beginning oversight of its implementation. However, we need to continue to press for a comprehensive approach to these issues and a speedy resolution of the conservation and management problems we are facing . I want to thank you for this opportunity to come before you today. I believe that these hearings will provide an important link in developing the coordinated program we need to protect our fisheries.

Senator ADAMS. Thank you very much, Mr. Mitchell.

Senator STEVENS. Senator, could you yield to me? I am an hour and 20 minutes late to another meeting.

Senator ADAMS. Yes, I would be happy to, Senator Stevens.

Senator STEVENS. I want to thank you very much for your courtesy in holding these hearings, and I apologize for leaving but I just have to go.

Senator ADAMS. Thank you, Senator Stevens.

I have one question, and I will submit the rest in writing.

Mr. Pennoyer, do you believe there currently are in force sufficient GIFAs with all of the nations fishing in the donut hole, so that under those agreements we have adequate authority to require observers on those vessels?

Mr. PENNOYER. Mr. Chairman, I probably ought to refer that to Commerce or State, but I do not think that probably is the case across the board. I think that we are probably going to have to seek other ways.

I do not think observers at this stage are going to be an enforcement ability. I think the Coast Guard enforcement plus the questions of extension of jurisdiction bilaterally or unilaterally are probably more in order toward that.

I think observers are needed right now to get better data. I think we need to know what is occurring in as many of those areas in

months and time frames as we can as to whether they are catching salmon and herring and what the composition of the catch is.

I do not think we are at a stage here to probably enforce 100 percent of the type of observer coverage used to try to get in our zone after the Magnuson Act.

Senator ADAMS. Thank you.

Senator Evans.

Senator EVANS. I will probably have some questions for the record, too.

Mr. Mitchell, if foreign vessels fished exclusively within the donut and did not venture into either the Soviet or United States conservation zone, in your view could they maintain an economic fishery?

Mr. MITCHELL. There is a chance that a limited number of vessels—the more experienced captains, especially in Japan, who know those waters very well and have for many years, could, not for 100 vessels that have been reported out there fishing but perhaps 20 vessels in a sustained period chasing the fringes of those pollock stocks as they move in and out of the donut at certain times of the year may be able to sustain themselves.

Those 20 to 30 vessels still would have serious consequences because I think the best assumption at this time is that most of those stocks are probably jointly both Soviet and U.S. Those 20 or 30 vessels can take a substantial amount of resource. Over time, that would diminish the pollock resource in our zone, and there would be an incidental catch associated with that.

So regardless of whether or not you have strict enforcement of the line, I think long term that without controls on the donut area with the amount of pollock or other species, incidentally herring and salmon, that would be taken, you still are going to have a resource conservation problem.

These stocks are all too important, not only to the now developing bottom fishery which Seattle is benefitting from but also in terms of its by-catch for fishermen from Alaska, salmon fishermen from Alaska, herring fishermen from Alaska, herring and salmon fishermen from Washington State and Oregon who fish out there. It is a conservation nightmare unless you get this situation under control.

I hate to say this at this time, but I have been around, and I have watched the Japanese for a number of years and read a lot of books about it, and I really believe that, when given the opportunity, the Japanese really believe in their hearts that you can fish a stock down and if it goes away for a while, it will come back at some point and we can just pull up and go and fish somewhere else.

I do not think that kind of attitude is appropriate. It is going to damage not only the commercial fisheries of our nation, but it is going to damage the stocks over all, the interaction of marine mammals. For those that live in western Alaska that live a subsistence lifestyle in the Eskimo communities, it has in the past damaged their ability to get their subsistence resources.

The Federal Government sued the villages in the late 1970s and shut down the foreign trawl fishery and basically stopped a domestic trawl fishery on herring just on the subsistence issue.

So as the resources decline in pollock, the incidental catch problems would get worse for our domestic industry. Eventually with commercial herring fisheries being shut down, possibly the subsistence herring fisheries might even shut down what is left of the domestic trawl fishery.

So if very direct and immediate action is not taken, this whole thing could just snowball in a period of two or three years into everybody's fisheries being shut down.

Senator EVANS. In the past, I think that it is probably accurate to say, whether inadvertently or deliberately, we did pretty much the same thing, overfished resources until they went away.

Mr. MITCHELL. I understand that, but I think the North Pacific Council is doing a great job. They are being very, very conservative. You have heard John Peterson. He is our Vice Chairman, and we are very concerned about getting a handle on this situation.

Senator EVANS. I understand. I agree with you. They have done a fine job in attempting to do this.

We have just one big problem because that donut is currently international water. As soon as you unilaterally try to change international waters into one nation's or two nations' waters, you are potentially subject to a whole domino effect in terms of other nations using that just as the trigger for them to do what they desperately would like to do, which is to extend their own resource boundaries. This can have some extraordinarily adverse impacts even on other American fisheries.

So it is a tough problem, and we have to deal with it.

Mr. MITCHELL. I understand that, but I think that this one can be solved.

Senator ADAMS. Thank you both very much.

Thank you both for being here.

The next panel is Mr. Barry Collier, President of Pacific Seafood Processors Association; Dr. Dayton Alverson, Natural Resources Consultants; and Mr. Robert Alverson, Manager, Fishing Vessel Owners' Association.

If they would come forward, we would proceed with that panel.

Please, which one of you would like to proceed? Mr. Collier, why not start?

STATEMENT OF BARRY COLLIER, PRESIDENT, PACIFIC SEAFOOD PROCESSORS ASSOCIATION

Mr. COLLIER. Thank you, Mr. Chairman and members of the committee. My name is Barry Collier. I am President of the Pacific Seafood Processors Association. The members of our association greatly appreciate this opportunity to testify before the committee today.

I am appearing today on what we consider to be the single most important issue currently facing the North Pacific seafood industry: illegal foreign fishing in the Bering Sea.

To describe the situation bluntly, the United States has been the victim of an organized program of illegal harvest of U.S. fishery resources by foreign nations.

This program of overfishing has been occurring since the enactment of the Magnuson Act but, we feel, has worsened as American-

ization has progressed and the foreign fleets have been denied directed fishing allocations within our EEZ.

The current situation is an absolute outrage. We ask, and with all due respect insist, this incident not be permitted to blow over.

Since AFTA provided its evidence, numerous suggestions have been made for how we can control illegal foreign fishing. The view of PSPA is that, short of restricting access to the donut in the EEZ, no single solution is sufficient. We feel that all proposals have merit, and we should try any or all options until we feel that the problem has been eliminated.

Just to get them on the record, however, let me quickly run through some of the ideas we have heard.

One, restrict access to the donut and the U.S. EEZ for all foreign nations.

Two, seizure of the vessels documented by AFTA as being involved in illegal activities.

Three, increased enforcement activity by the Coast Guard and NMFS or, if this is not possible due to budget constraints, a shift of enforcement effort from the domestic to the foreign fleet.

Four, develop a cooperative effort with the Defense Department and other security agencies to monitor foreign vessels.

Five, the use of satellites and other remote sensing devices to monitor foreign fleets. This category would include coded transponders and automated listening devices actually employed at sea along the boundary area of the donut hole.

Six, as you have heard, implement check-in and check-out procedures, both physical check-in and also radio check-in.

Seven, use of the U.S. fishing fleet to monitor and report foreign activities within our EEZ and the donut hole.

Eight, insist on complete and accurate transshipment data, including product carried from the EEZ and the donut area by foreign processing vessels.

Nine, as a follow-up to point eight, inspect shipments when they reach the foreign home port to confirm the reported composition and quantity of harvest.

Ten, as Mr. Mitchell pointed out, bonds should be requested from foreign companies and countries for vessels operating in the U.S. EEZ and the donut hole area. In the event of violations of U.S. law, penalties could be assessed against the bond.

Eleven, change the law to make it easier for the U.S. Coast Guard to bring enforcement actions against these foreign nations when illegal activities are evidenced.

Lastly, Mr. Chairman, since there will be no TALFF available in 1988, require that all foreign fishing vessels while operating in the U.S. EEZ must have all fishing gear stored below deck.

To summarize, we know we have a very major problem on our hands. It is probably even more serious than previous worst case scenarios. We need to use every means at our disposal to protect this valuable resource.

The current system will not stop it; foreign pledges of action and good faith will not stop it. The fish stocks in that part of the North Pacific are our responsibility, and it is up to us to put a stop to this blatant, outright theft.

Finally, I would like to thank you, Senator Adams, and also Senator Evans, as well as other members of the Commerce Committee, the Senate and the House for responding so quickly to the evidence provided by the Alaska Factory Trawler Association, to whom we are all indebted for bringing this issue out into the open.

I would be pleased to answer any questions following the remainder of the panel's presentations.

[The statement follows:]

STATEMENT OF BARRY D. COLLIER, PRESIDENT, PACIFIC SEAFOOD PROCESSORS ASSOCIATION

Good morning, Mr. Chairman and other members of the Committee. My name is Barry D. Collier. I am President of the Pacific Seafood Processors Association. Senator Adams, the members of our Association greatly appreciate this opportunity to testify before this Committee.

Before beginning, please allow me to describe the nature of our organization. Pacific Seafood Processors Association (PSPA) is a seafood trade association of 74 years standing, which represents the major processors in the Pacific Northwest and Alaska. Members of the organization account for about 85% of the processed seafood produced in the area and have gross annual sales of about one billion dollars.

I am appearing today on what we consider to be the single most important issue currently facing the North Pacific seafood industry—illegal foreign fishing in the Bering Sea.

To describe the situation bluntly, the United States has been the victim of an organized program of illegal harvests of U.S. fishery resources by foreign nations.

This program of overfishing has been occurring since the enactment of the Magnuson Act but, we feel, has worsened considerably as Americanization has progressed and the foreign fleets have been denied directed fishing allocations in view of the rapid increase in domestic processing.

The current situation is an absolute outrage. There is simply no other way to put it. For years the body of evidence documenting illegal foreign harvesting has grown, and we have never responded in a vigorous enough manner to put a stop to the poaching of billions of dollars worth of fish. Our own restrictive laws, budget problems, and diplomacy have all constrained any serious attempts at protecting the invaluable fishery resources of the North Pacific. Our misplaced reliance on the honesty and good faith of the foreign nations which fish in the North Pacific has left us looking like fools in the eyes of the fishery world. This must stop, and we hope that the members of this Committee will join you and your colleagues from the Northwest and Alaska in making sure that we do not go back to "business as usual" once the furor over this particular episode dies down.

We have been very encouraged by the quick response from various levels of government. Numerous, strongly worded letters have been exchanged; there have been Congressional Record Statements by members of Congress; and [illegible]cials of the Reagan Administration have pledged action. While we appreciate [illegible]expressions of support, all of us in the seafood industry recall the last time [illegible]vidence of widespread, organized foreign cheating was uncovered in 1983, when logbooks and "how to cheat" manuals were seized from Japanese vessels. There was a great deal of outrage and a great deal of sabre rattling, but little was done to actually put a stop to the problem of organized resource theft. The reconnaissance mission by the Alaska Factory Trawler Association proved that. We ask, and with all due respect, insist that this episode not be permitted to blow over. If the Alaska government is allowed to get away with asserting that no serious violations occurred, and if the guilty vessels are allowed to go unpunished by U.S. law, we might as well recognize that they'll continue taking our resources and reinstitute the foreign fishery allocation system. Then the foreigners would at least be making token payments for the fish they are currently getting illegally.

I would like to take a few moments to outline the reasons why the members of PSPA feel so strongly about this. There are two parts to the problem; biology and economics. Of the two, the biology is more important. Short-term economic factors can be overcome, but if the biological problem gets out of hand we are facing a long-term collapse of the North Pacific groundfish industry. Anyone who was around for the collapse of the crab resource in 1979 and 1980 knows this must be avoided.

The biological problem we face stems from the nature of fishery stocks and our management of them. To say that fishery management is an inexact science is prob-

ably giving the process more credit than it deserves. So many unknowns face fishery managers that since 1977 it has become a given that conservative management philosophies are crucial to maintaining fisheries which are reasonably productive and predictable. However, even a conservative philosophy becomes meaningless if the managers are being intentionally misled about the underlying data on stock sizes and harvest levels. Unfortunately, that is what is currently happening. We have more than enough evidence to conclude that foreign harvest levels have been running well above that which is reported. Were it not for the fact that the North Pacific Fishery Management Council has wisely managed in a conservative manner, I hate to think what shape groundfish stocks might be in today.

On the economic side of the ledger, the most immediate problem is the impact this illegally caught fish has when it reaches the world market. The U.S. government and various U.S. industries, including seafood, have complained for years about the difficulty of penetrating foreign markets—especially Japan. It might be useful if we view this illegal fishing not as a violation of natural resource law, but as an unfair trade practice. This is not unreasonable because, as our members can attest, they are indeed being shut out of market opportunities by competition from fish being illegally taken from the EEZ. We don't mind competing on the world market. We believe we can do quite well in market competition if we are using our resources and other nations are using theirs. We just don't want to compete against our own fish on the international marketplace.

Another economic problem we face as a result of illegal foreign fishing involves species other than groundfish. These so called "traditional' species include salmon, crab, halibut and black cod. Considerable evidence has developed over the years that these species are being taken illegally by foreign nations and are entering world markets. There have been several well publicized cases of illegal salmon appearing on Asian and Europan markets. There is no doubt that much of this fish is of U.S. origin and is being taken illegally in the EEZ and adjacent waters. This problem will remain unabated as long as we continue to allow numerous foreign fishing vessels to sit un-monitored in the U.S. EEZ simply on the pretext that they are exercising their right of free passage on the high seas. The fact is that we are talking about fishing vessesl . . . not cargo ships . . . not cruise ships . . . fishing vessels. They have only one function, and we are being naive if we think they are not actively fishing during their weeks long voyage from nowhere to nowhere through the U.S. EEZ.

Before presenting some specific suggestions for enforcing the waters we claim jurisdiction over, I would like to make one comment about the dispute over transshipment data. We must not get sidetracked into a statistical argument over the extent of foreign overfishing. Regardless of whether it is one hundred thousand tons, one million tons or ten million tons, the strength of our response should not vary. The fact is that we are not adequately protecting our resources.

As you are aware, Senator Adams, since AFTA provided its evidence, numerous suggestions have been made for how we can control illegal foreign fishing. The view of PSPA is that short of restricting access to the Donut and EEZ, no single solution is sufficient. We feel that all proposals have merit and we should try any or all options until we feel the problem has been eliminated. Just to get them on the record, however, let me quickly run through some of the ideas we've heard.

1. Restrict access to the Donut and EEZ.
2. Seizure of the vessels documented by AFTA as being involved in illegal fishing.
3. Increased enforcement activity by the Coast Guard and NMFS or, if this is not possible due to budget constraints, a shift of enforcement effort from the domestic to the foreign fleet.
4. Develop a cooperative effort with the Defense Department and other security agencies to monitor foreign vessels.
5. Use satellites and other remote sensing devices to monitor foreign fleets. This category would include coded transponders and automated listening devices actually deployed at sea along the boundary of the Donut and EEZ.
6. Implement check-in/check-out procedures, including both a physical check-in and a radio check-in.
7. Use the U.S. flet to monitor and report foreign activities.
8. Insist on complete and accurate transshipment data, including product carried from the EEZ/Donut area by foreign processing vessels themselves.
9. Inspect shipments when they reach the foreign home port to confirm the reported composition and quantity of the harvest.

Since so many of the potential responses involve using our considerable technological capabilities, we also suggest that the Congress may want to solicit the advice of

its own Office of Technology Assessment or the General Accounting Office on the matter.

To summarize, we know we have a very major problem on our hands. It is probably even more serious than previous worst case guesses. We need to use every means at our disposal to protect these valuable resources. The current system will not stop it. Foreign pledges of action and good faith will not stop it. The fish stocks in that part of the North Pacific are our responsibility and it is up to us to put a stop to this blatant, outright theft.

Finally I would like to thank you, Senator Adams, as well as other members of the Commerce Committee, the Senate and the House for responding so quickly to the evidence provided by the Alaska Factory Trawler Association, to whom we are all indebted for bringing this issue out into the open.

I would be pleased to answer any questions you may have.

Senator ADAMS. Dr. Alverson.

STATEMENT OF DR. DAYTON ALVERSON, NATURAL RESOURCES CONSULTANTS

Dr. ALVERSON. Thank you, Mr. Chairman. It is a pleasure being here to testify to you and Senator Evans on what is obviously an extremely important issue to all sectors of the fishing industry in the Pacific Northwest and Alaska.

My name is Lee Alverson. I am the managing partner of Natural Resource Consultants and a commissioner on the International North Pacific Fisheries Commission. I have submitted a rather lengthy paper for the record and will confine my testimony to focus on some of the paper's more salient points.

Senator ADAMS. Without objection, your paper will appear in the record by reference, Dr. Alverson, and be retained in our committee files.

Dr. ALVERSON. Thank you.

The paper submitted makes a cursory overview of the historical record of illegal foreign fishing activities in the U.S. EEZ off Alaska and then concentrates on more recent circumstantial and direct evidence concerning violations of the Magnuson Fisheries Management Conservation Act in the Bering Sea region.

The document concludes with an estimate of the potential levels of fishing in excess of that reported for the Bering Sea and Gulf of Alaska and the so-called donut areas.

Mr. Chairman, Natural Resources comes to the following general conclusions.

One, that U.S. Coast Guard and National Marine Fisheries Service records of violations, seizures and other penalties in the U.S. EEZ off Alaska provide ample evidence on their own that illegal fishing activity has persisted since the FCMA in 1977. In this sense, the recent industry citings of illegal foreign fishing only serve to confirm what history had already established.

Growing evidence of illegal fishing and underlogging perhaps should not have come as a surprise to U.S. managers. Quota systems in combination with area restrictions imposed throughout the world following extensive extension of national jurisdiction have resulted in numerous civil problems.

Off the coast of the Northeast Atlantic, scientists report that underlogging problems may be from 25 to 50 percent.

Off Northwest Africa, you have a very similar situation where they are talking 30 to 60 percent erosion of the resource as a result of either illegal fishing or underlogging activities. So in this sense,

if you do not have an effective system of enforcement, your regulations are not going to be obeyed.

The issue raised by the recent circumstantial and direct evidence is what is the magnitude of such violations, and how does this affect the capacity and ability in the United States to effectively manage the resources of the region.

If it is true that underlogging and illegal fishing has resulted in a significant removal of fish from our EEZ off Alaska, then these activities may constitute a threat to the long-term biological productivity of the stocks involved and to the economic well being of the fishing industry which has emerged in only about a seven-year period.

Based on radio transport data and civil assumptions, we have made estimates of the potential removals by looking at the amount of products transformed and then using known recovery rates extrapolated to round weights.

We come to three different conclusions. Based just on the radio transport data alone, we estimate about 3.75 million metric tons have been taken out of the Gulf Bering Sea and donut area. The reported catch for this area is 2.85 million. So you are about a million over base just on the transport data alone.

But this data does not take into account that fishing boats themselves transport back to Asia a considerable amount of product. If you add a reasonable estimate for this activity, the figure jumps to about 4.4 million tons.

Further, all of the estimates have assumed that all of the transport of fish out of the Bering Sea has come out of the Eastern Bering Sea, and this also is highly unlikely. Boats fishing the western donut are not going to move to the east to transport fish back to the west.

If you make an adjustment for that, your figure approaches 5 million tons harvest. This is from 1 to 2 million tons over the reported catch and consumes a similar percentage overage for other areas of the world. It is a loss to the system of about $.5 million to $1 billion.

Now, there are some problems with the quality of the data. Most of this is relying on radio transport data that NMFS says it has some problems with. I think improved radio transport data in association with the surveillance data of the Coast Guard can provide a significant improvement in our understanding of both the density of vessels and the amount of removals they are potentially taking. The radio transport data should be improved and used as one source of information on U.S. and foreign fishing operations.

Finally, I know that we have talked here to a large degree about the illegal Japanese fishing problem. I think all of us feel this is a generic problem. It is a foreign fishing illegal problem and some of our own people may be involved. I hate to think that, but it is an illegal fishing problem in all foreign nations, and perhaps some of our own people are involved.

Senator ADAMS. Thank you very much, Dr. Alverson.

Mr. Alverson.

STATEMENT OF ROBERT ALVERSON, MANAGER, FISHING VESSEL OWNERS' ASSOCIATION

Mr. ALVERSON. Mr. Chairman, I would like to thank you for the expeditious manner in which you have conducted this hearing and bringing to the public's attention the problem before us.

My name is Bob Alverson. I represent the Fishing Vessel Owners' Association out of Seattle. I also have the privilege of representing the Deep Sea Fishermen's Union. Both organizations are out of the State of Washington. They are both fishermen organizations, and they conduct primarily longline activities in the Alaska region both in the Bering Sea and the Aleutian Archipelagos area.

In 1987, longline activity accounted for 70 percent of the DAP ex-vessel value, and 50 percent of the DAP wholesale value landed in the State of Alaska.

Due to illegal fishing activities in the Bering Sea conducted by vessels tailored for H&G product and frozen in the round pollock, we have sustained as an industry an unknown damage in terms of conservation as well as having deleterious effects on export and internal markets within the United States.

Clearly, no management measures for any fishery in the Bering Sea ecosystem can be fully effective when challenged by illegal or unregulated fishing at the present scale of 1 to 2 million metric tons annually.

Our associations collectively request the government to proceed in three directions simultaneously.

First, for those foreign vessels that the United States Government has authority over, we request that position finding transponders be placed on them. This has four immediate results: a real-time picture of that fleet; the location of that fleet; the identification of the vessels; and provides immediate deterrence.

We would also like to see Congressman Bonkers' concept of a check-in/check-out provision provided. This also provides an immediate deterrent.

Lastly, we would like to see Senator Ted Stevens' proposal for a moratorium and sanctuary pursued at the end of this month or the first part of April when the State Department meets with the Soviets. We feel that this is the only true leverage area, by going bilateral to gain leverage to force multilateral agreements or to gain control and accountability of the removals taking place in the Bering Sea donut area.

We recognize that DOD may have some problems with this, but we overcame those similar problems that DOD had in terms of the 12-mile extension and the 200-mile extension. I believe if DOD puts its problems on the table, we can accommodate them on this problem as well.

Thank you, Senator Adams.

[The statement follows:]

STATEMENT OF ROBERT ALVERSON FOR THE FISHING VESSEL OWNERS' ASSOCIATION AND DEEP SEA FISHERMEN'S UNION, SEATTLE, WA

Mr. Chairman, on behalf of the Fishing Vessel Owners' Association ("FVOA"), and the Deep Sea Fishermen's Union ("DSFU"), I would like to thank the Committee for the opportunity to present testimony on the issue of foreign fishing in the Bering Sea. FVOA is a trade association representing 100 longline vessel owners,

who are based in Washington, Oregon, California, and Alaska. DSFU is a union of crewmen on longline fishing vessels. FVOA and DSFU are among the longest established organizations of fishermen on the West Coast of the United States.

For many decades, FVOA and DSFU have contributed to the development of fisheries policies in the Congress and State legislatures, and have participated in international, regional, and State fishery management organizations. FVOA and DSFU have consistently demonstrated a strong commitment to effective conservation and orderly development of our nation's fisheries.

As organizations of fishermen whose livelihoods depend upon the fisheries of the Bering Sea and North Atlantic Ocean, FVOA and DSFU are deeply concerned about illegal foreign fishing in the United States Exclusive Economic Zone ("EEZ") and unregulated foreign fishing in the adjacent high seas. These activities frustrate the conservation efforts of State, regional, national, international, and responsible foreign fisheries management organizations. Putting it plainly, no management measures for any fishery in the Bering Sea ecosystem can be fully effective, when challenged by illegal and unregulated fishing on the present scale of 1–2 million metric tons each year. Consequently, FVOA and DSFU are grateful to the Chairman and members of this Committee, and to other Members of Congress, who have recognized the seriousness of this situation and moved promptly to consider remedial measures.

It appears reasonably certain that foreign nations which are parties to Governing International Fishery Agreements ("GIFA's") are principally responsible for the illegal and unregulated fishing which is taking place in the Bering Sea. These are nations which have benefited for many years from access to the vast fishery resources which the United States has managed fairly and effectively. In light of this history, it is unacceptable that these nations have turned to illegal and unregulated fishing which they know cannot be reconciled with United States conservation efforts and universally recognized conservation principles.

FVOA and DSFU believe that the GIFA's provide useful mechanisms for beginning to address both illegal fishing in the U.S. EEZ and unregulated fishing in the adjacent high seas. Specifically, FVOA and DSFU find merit in the proposal sponsored by Congressmen Miller, Bonker, Young, and other Members of Congress, that the United States require GIFA countries to install and maintain appropriate position-fixing and identification equipment ("transponders") on their fishing vessels. It is encouraging that Ambassador Wolfe, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, has taken a positive view of this proposal in his recent testimony before the House Committee on Foreign Affairs.

Mr. Chairman, with your permission, I would like to submit for the record [4] a legal analysis prepared by our Washington Counsel, who negotiated a number of GIFA's on behalf of the United States, during his tenure at the State Department. It is his opinion that the GIFA's provide ample authority for the United States to require transponders, not only on foreign fishing vessels holding permits to operate in the U.S. EEZ, but also on foreign vessels which conduct fishing activities in the adjacent high seas where anadromous species of United States origin may be intercepted.[5]

FVOA and DSFU believe that a requirement for transponders would allow the United States to obtain a "real-time" picture of the number, location, and identity of all foreign fishing vessels in the U.S. EEZ and most in the so-called "donut hole" in the Bering Sea, without imposing substantial additional burdens on our enforcement agencies or inflicting significant additional costs on our taxpayers.[6] Moreover, transponders would have an immediate deterrent effect on those who heretofore have felt relatively safe from detection in the course of illegal fishing activities. For these reasons, if there are any technical problems, we are hopeful that they can be overcome.

Although useful and appropriate, a requirement for transponders cannot provide specific information on the volume and composition of catches by foreign fishing vessels in the Bering Sea. FVOA and DSFU believe that it should be a major priority of the United States to obtain this important data. Adoption of the proposal of

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[4] The submission was not reproducible and is in the Committee files.

[5] FVOA and DSFU are not persuaded by the argument that the Magnuson Act must provide express authority for a transponder requirement beyond our 200-mile zone, where U.S.-origin anadromous species are present. The GIFA, as an Executive Agreement approved by Congress pursuant to the Act, provides sufficient authority.

[6] The proposal for NAVSAT equipment and periodic reporting of continued read-outs by foreign fishing nations to the U.S. is inadequate. Such an approach does not permit timely enforcement or guarantee reliable reporting.

Congressman Don Bonker for a "check-in check-out" system for foreign fishing vessels operating in the U.S. EEZ could contribute to our data base.

FVOA and DSFU have given careful thought to Sen. Stevens' position that a long-term, comprehensive solution can be achieved by the conclusion of a bilateral agreement with the Soviet Union. It is obvious that, because the two nations bordering the Bering Sea have preeminent fishery resource interests in the area, a strong case can be made for bilateral management. This case is bolstered by the fact that foreign fishing vessels operating in the "donut hole" are, at present, subject to no conservation measures beyond limited restrictions on salmon fishing under the International Convention for the High Seas Fisheries of the North Pacific Ocean.[7] The foreign fishing nations harvesting groundfish are, therefore, in clear violation of their obligation, under international law, to regulate the activities of their nationals so as to ensure conservation of fishery resources beyond the limits of national jurisdiction. Moreover, there is no basis for those nations to claim traditional fishing rights, because operations in the "donut hole" were commenced only in the very recent past.

It is known that the Administration has some concern about the proposal for a bilateral agreement between the Soviet Union and the United States to govern fisheries in the "donut hole". The fear seems to be that the Soviets will be encouraged by such an agreement to press their historic position that third countries may be excluded from enclosed and semi-enclosed seas by the adjacent coastal nations. Nevertheless, FVOA and DSFU do not believe that it is beyond the capacity of the United States Government to craft a bilateral agreement in such a way as to avoid the feared consequences. The recent conclusion of an agreement to provide U.S. fishermen access to Soviet resources is evidence of the fact that difficult issues can be resolved successfully in our relationship with the U.S.S.R. The bilateral discussions scheduled for late March/early April in Washington, D.C. provide a timely opportunity for advancing our shared interests in the Bering Sea fisheries.

The most obvious solution to illegal and unregulated foreign fishing in the Bering Sea, but the most difficult to achieve, would be a multilateral agreement involving all interested nations. However, foreign fishing nations have little incentive to cooperate in such an effort, and could easily frustrate the negotiations. A delay in the establishment of conservation measures could result in serious harm to the fish stocks.

FVOA and DSFU believe a multilateral agreement can be a realistic goal if the United States establishes interim, unilateral conservation measures and enforces them against foreign vessels. These measures would apply to "straddling stock" (*i.e.*, stocks which appear within and beyond the United States 200-mile zone) or to stocks in the area east of the 1867 U.S.-Russian Convention Line in the "donut hole". It is reasonable to expect that corresponding measures would be implemented by the Soviet Union, with the result that decisive leverage would be provided for conclusion of a multilateral agreement among all interested nations. Interim bilateral measures might also be achievable, and would have the same effect. In either case, a moratorium on all fishing in the "donut hole" would be a conservative first step. Following a resource assessment by the United States and the Soviet Union, further measures could be instituted, as appropriate.

In closing, FVOA and DSFU urge this Committee and the Congress to hold open the possibility of a permanent, unilateral extension of fishery jurisdiction by the United States, as a measure of last resort. The Administration and foreign fishing nations should be put on notice that the status quo will not be tolerated and, in the absence of an effective international agreement, the United States will act on its own, as it has done in the past, to ensure that valuable fishery resources are not despoiled by irresponsible foreign fishing nations.

Unfortunately, the Administration may be opposed to this approach as allegedly inconsistent with U.S. Law of the Sea policies. This Committee will recall that a similar view led previous administrations to oppose the extension of our fisheries jurisdiction to 200 miles, when international negotiations had failed to produce critically needed management measures. It is a matter of historical record that our national interest was not in the least way harmed by the establishment of our 200-miles zone in the Magnuson Act. Rather, the Nation derived enormous benefits through effective conservation of valuable resources and the development of our

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[7] FVOA and DSFU understand that an argument has been made for extending the work of the International North Pacific Fisheries Commission to additional species of fish in the Convention area. As an organization limited to the U.S., Japan, and Canada, the Commission is not in a good position to address the range of issues presented by the multiplicity of fishing activities in the Bering Sea.

American fishing industry. This should be remembered in considering the option of a further extension of our national jurisdiction.

Thank you, Mr. Chairman, for this opportunity to appear before the Committee. I would be pleased to answer any questions.

Senator ADAMS. Thank you very much, Mr. Alverson and the entire panel, for excellent testimony.

Senator Evans, do you have any questions of the panel?

Senator EVANS. You have heard from earlier questioning of the difficulty in unilaterally attempting to close the zone.

Would any or all of you care to comment on your view as to what percent of the problem or how much of the problem would be resolved if we could completely eliminate illegal fishing within the U.S. or Soviet economic zone and confine whatever international fishing there is to the donut hole?

Dr. ALVERSON. Senator Evans, I will make a stab at it.

I think the responses you had earlier pretty well are similar to my viewpoint.

If you look at——

Senator EVANS. I detected some difference from Mr. Hjelle on the one end and later testimony on the other.

Dr. ALVERSON. I think if you look at the historical data, observations of what the Coast Guard in terms of what they have seen, and of U.S. observers on boats, there is evidence that commercial quantities of fish have been taken in some areas within the donut, particularly in those areas as outlined by Mr. Hjelle.

I would be surprised if the stocks within the donut area could over time provide commercial quantities to vessels on a sustained basis throughout the year. There may be short-term periods when they become available. They can concentrate on those, perhaps, in the winter period, January-February; but on an annual basis, I rather doubt it.

You see evidence that there is a large fleet out there throughout the year, so that raises some suspicion in my mind.

I think the enforcement issue would go a long way to establishing either the psychological feeling that we have dealt with a major part of the issue. I would not want to abandon it there, though, and say we should go on forward, with whatever means and methods, to understand the basic biological questions.

Senator EVANS. I would agree. The enforcement action may be something we can do. Well, obviously we can do it unilaterally.

Second, it is clear that it is illegal for foreign vessels to be in there.

Third, we can do it a lot faster than any kind of negotiations that might have to be carried on for the donut itself.

Is there a concern on the part of the American fishing industry if we could close off the donut itself and share it only between the Soviet Union and the United States—I would guess that the Soviets would assert jurisdiction over a substantial portion of that donut. I doubt very much that they would say, well, that is fine, you, the United States, just take over the whole donut.

Is that or could that be something of a problem if they were to then assert a much stronger ownership, if you will, to a substantial portion of that donut?

Dr. ALVERSON. I rather doubt it. The Soviets have the largest pollock stocks in the world within their own zone and have an ample supply. It is perhaps one reason you do not see Soviet boats fishing the donut area at the present time.

Senator EVANS. I would doubt very much that the Soviets, given an opportunity like that, would shy away from the chance to expand their territory.

Dr. ALVERSON. I think they would take over their jurisdiction, but whether or not they would actively fish in the area would be another question.

Senator EVANS. Thank you, Mr. Chairman. I will have other questions for the record.

Senator ADAMS. I particularly appreciate the comments by Dr. Alverson and the rest of the panel on the worldwide impact to fisheries where we have international fleets moving from place to place throughout the world, depleting the stocks and moving on and then coming back if the stocks ever do recover. Sometimes they do not.

That was the reason for the Magnuson Act when we all worked on it and passed it many years ago. I just want to close this part of the hearing by saying we are pleased that it has successfully completed what we wanted it to do. It also should have been obvious to those of us who worked on it that it would produce this kind of a problem, which is that the fleets would sit off the area and either illegally fish or seek to go into waters that were as close as possible.

So that is the reason for the hearing. Everybody this morning has been extraordinarily helpful in addressing this. Members of the committee will proceed with it.

I also know that there have been a number of people who wished to testify and were unable to. Therefore, with the many requests that we have received to submit testimony, the hearing record will remain open for a two-week period for the purpose of those who wish to submit additional written testimony. We will be pleased to receive it.

Our apologies for moving back and forth to the vote this morning. There is nothing we could do about that.

I apologize also for limiting the number of witnesses, but it was simply a time constraint.

You all have been excellent, and you have been fine representatives.

The committee will stand in recess.

[Whereupon, at 12:50 p.m., the committee was adjourned, subject to call of the Chair.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

SCHOOL OF LAW,
UNIVERSITY OF WASHINGTON,
Seattle, WA 98105, March 4, 1988.

Senator BROCK ADAMS,
U.S. Senate, Washington, DC.

DEAR SENATOR ADAMS: I would like to submit the following remarks for the record of the hearing concerning fishing in the donut area of the Bering Sea. Earlier I wrote a memorandum [1] on legal issues in establishing fishery management in the donut area in the Bering Sea, which was sent to you.

A question has been raised about the usefulness in this connection of Article 123 of the 1982 Convention on the Law of the Sea. That Article is entitled "Cooperation of States bordering enclosed or semi-enclosed seas" which are ocean areas "surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorials seas and exclusive economic zones of two or more coastal States." (Article 122 Definition).

The most important point for present purposes is that Art. 123 does not confer any rights on States adjacent to an enclosed or semi-enclosed sea. The article provides for their cooperation in the exercise of rights that are otherwise enjoyed by those States. Such rights, as specified in Article 123, are those pertaining to living resources (management, conservation, exploration and exploitation), protection and preservation of the marine environment, and marine scientific research. These are the most prominent elements of coastal State rights in the exclusive economic zone (EEZ).

Thus, the general purpose of Article 123 is to promote cooperative actions in the exercise of those rights. Another, not less important purpose, I believe, is to make clear that States adjoining semi-enclosed seas acquire no greater rights over this ocean area because of this geographical relationship than they otherwise possess as coastal states. Accordingly, any rights they have in the EEZs or high seas of such an area must be found in provisions that confer rights pertaining to the subjects specified in Article 123. In the case of the donut area of the Bering Sea, Articles 116, 87, and 56, and their counterpart principles of customary international law, are relevant provisions to consider in regard to living resources. Article 123 enjoins cooperation in the exercise of such rights as derive from the principles reflected in these Articles.

Since states do not need treaty articles and international agreements to cooperate and coordinate actions as they fit, the probable major purpose of Article 123 was to make clear that states adjoining semi-enclosed seas enjoy only rights otherwise provided to coastal states in general.

A second observation is the some observers now urge that the 1982 Convention requires that coastal states in their EEZs pursue ecosystem management in taking management measures for living resources. As important as such a goal might be, there is not much evidence in the Convention to support it and there is evidence that it was no intended. Article 65 is the best indication of the lack of intent because it permits a coastal State to manage marine mammals without regard to their place in the ecosystem. For example, under Article 65, a coastal State may prohibit any taking of marine mammals irrespective of the effect on other species. Even if this prohibition were to endanger other species, it is permitted under Article 65 which expressly provides that nothing else in that part of the treaty restrains the coastal state in its more restrictive marine mammal management. This arrangement is hardly consistent with ecosystem management.

It is true that the Convention in other provisions (excluded by Art. 65 for regulation of marine mammals) enjoins States in their management activities to take account of the interdependence of stocks and to take into consideration the effects of its measures on species associated with or dependent upon harvested species. These

[1] The memorandum is in the Committee files.

injunctions call for multi-species management but this appears to fall short of a directive that the State must manage the ecosystem as a whole.

The more substantive point here, however, is that whether one calls these provisions of the treaty ecosystem management or something else, the coastal state cannot implement them adequately if its management authority is strictly and rigidly confined within a 200 mile EEZ. Ecosystems and interacting populations of living resources are not necessarily defined by, or confined within, such limits by any law of nature and the law of man cannot do so either. Under appropriate circumstances, therefore, and after failure of international negotiations to achieve an effective management regimes, contemporary principles of international law can be interpreted to permit a coastal State to extend its conservation regulations to living resources that are found both within and outside its EEZ. At the least, those circumstances embrace a situation in which the best available scientific evidence demonstrates the relationship between the stocks and it is also evident that conservation measures cannot be successfully implemented on only the stock within the EEZ.

One point needs to be emphasized in this connection. I believe that under current international law principles it is necessary first to attempt to negotiate an international solution to such problems as presented by the donut area of the Bering Sea. While it is true that the coastal state has sovereign rights over the EEZ stocks and that the high seas fishing states may fish only subject to those rights, the means for accomplishing this, such as the precise measures to be observed and the conditions of fishing, would seem to be negotiable matters. It seems likely that the coastal state in such a situation may find it necessary to compromise on some aspects of needed measure, such as their timing and duration. Unless there is some give in the coastal state position in is difficult to see what would be subject to negotiation with the high seas fishing state. At the same time, the legal position, as I read the applicable law, is that coastal state rights and interests are dominant in the event the parties are unable to agree on conservation measures.

This suggests that there may be need for a modification of what appears to be the prevailing principle that forbids a coastal state from exercising any enforcement authority beyond its EEZ even if it is authorized to prescribe regulations to be observed in that area. This restriction on coastal authority in this situation virtually disables the coastal state, if the high seas states refuse to comply with coastal regulations. There are, of course, other sanctions and measures that might be used to achieve compliance with coastal state conservation measures.

This potential dilemma might be resolved if the coastal states in a donut-type situation were willing to accept an appropriate third party dispute settlement mechanism in lieu of unilateral enforcement. Such an arrangement would need to be carefully limited so that it did not amount to the transfer of management authority to the settlement mechanism.

Finally, this problem with the management of stocks in the central Bering Sea highlights a current opportunity to take steps that would assist in avoiding or resolving future difficulties. I refer to the proposed international organization for coordinating marine science activities in the North Pacific Ocean which would combine the efforts of scientists from Canada, the People's Republic of China, Japan, the Soviet Union and the United States in the study, analysis and dissemination of investigative results relating to the marine environment of the region.

The proposed organization, (often called PICES, for Pacific International Council for the Exploration of the Sea, after the Atlantic Ocean organization of that name) has been under active discussion for over a decade and recent negotiation between the governments concerned. It would be strictly limited to scientific activities and have no management functions. Nevertheless, the results of its work would be immensely valuable for agencies that do have such functions. The donut situation is an excellent illustration of the value of such an organization. If the relevant marine and fisheries scientists had been coordinating their efforts over the past few years we might now have the data and information required for identifying and perhaps resolving the conservation problems resulting from the pollock fishing in this area.

However the immediate question of pollock conservation is finally resolved, this experience should convey a clear message that it is in the United States interest, as it is in the interest of all the states mentioned, to proceed forthwith to establish a scientific organization for the North Pacific Ocean.

Sincerely yours,

WILLIAM T. BURKE,
Professor of Law.

FISHERIES AGENCY,
MINISTRY OF AGRICULTURE, FORESTRY AND
FISHERIES, GOVERNMENT OF JAPAN,
Tokyo, Japan, March 6, 1988.

Hon. ERNEST F. HOLLINGS,
Chairman, Senate Committee on Commerce, Science and Transportation, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HOLLINGS: In connection with the hearing before the Commerce Committee on Bering Sea fisheries issues scheduled 16 March 1, 1988, the Government of Japan (GOJ) would like to inform you and the members of the Committee of its intent to present the written comments in the near future. The following will be the major points of our comments.

1. The GOJ takes very seriously the recent allegations that Japanese fishing vessels have engaged in fishing activities in the U.S. EEZ without lawful permission from the Government of the United States (GUS). The GOJ has initiated its investigation and, if these allegations are established under the requirements of Japanese law, the owners and operators of these vessels will be punished to the maximum extent provided by our law.

2. The GOJ believes that the participation of several countries in the Bering high seas fisheries and the complex nature of resources in this high seas area (inter mingling of several population of different origin) necessitate multilateral mechanism to deal with this issue. In November 1987, the GOJ proposed the preparatory meeting of a multilateral mechanism for this purpose under Article 4 of the INPFC treaty. To date we have no response from the United States.

3. The GOJ believes that recent assertions by U.S. industry spokesmen with respect to the potential magnitude of alleged illegal fishing in the Bering Sea are vastly exaggerate. These assertions are largely based on transshipment data collected by the National Marine Fisheries Service (NMFS)—data which NMFS has stated are unreliable.

The United States and Japan had a long and constructive relationship on fisheries matters. The GOJ is willing to provide any available information to your Committee in the future.

Sincerely yours,

KAZUO SHIMA,
Councillor, Fisheries Agency.

GREENPEACE,
Washington, DC, March 24, 1988.

Hon. ERNEST HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Hart Building, Washington, DC.

DEAR SENATOR HOLLINGS: Greenpeace, an international environmental organization with offices in nineteen countries and 850,000 supporters in the United States, applauds you for holding hearings in the Senate Commerce Committee on fishing activities by foreign nations in the so-called "donut hole": the international waters of the Bering Sea. We would like to provide additional comments to the body of information collected during the hearing.

Greenpeace desires the expedient implementation of measures to attain significant reductions of foreign fishing activity in this biologically critical area. As an organization devoted to the protection of the marine environment, we are concerned that widespread unregulated trawling and other fishing activity in the donut hole could cause depletion of pollock and other fish stocks.

Our organization has raised concern over proposals for increased trawling for groundfish by the domestic trawl fishing industry inside the U.S. Fisheries Conservation Zone (FCZ) of the Bering Sea/Aleutian Islands area. As preliminary studies indicate that donut hole and FCZ pollock stocks are likely to be straddling and, thus, common, the activities of foreign fleets inside and around the donut hole could ultimately limit fishing opportunity for the U.S. industry. It must be noted that harvests by foreign vessels in the donut hole are not counted against FCZ quotas under the present system. A combination of uncontrolled fishing by foreign fleets in the donut hole and increased trawling by the U.S. fleet in the FCZ could cause an ecological disaster.

Depletion of pollock and other fish stocks would have severe consequences for the entire Bering Sea ecosystem. The future sustainability of this important protein source for humans, and the valuable American groundfish fishery in the U.S Fish-

ery Conservation Zone (FCZ) of the Bering Sea/Aleutian Islands, would be jeopardized. Moreover, the viability of numerous marine mammal and seabird species could be threatened.

The northern fur seal and the Stellar sea lion—which depend upon pollock, other groundfish, and squid for prey—are representive of declining marine mammal populations whose jeopardized situations could be aggravated as a result of overfishing in the Bering Sea. The National Marine Fisheries Service (NMFS) estimates that both species are experiencing population declines of approximately 6 percent annually. While current NMFS studies do not indicate that prey deprivation are a factor in the species' declines, possible depletion of prey species due to overfishing represents a potential future problem.

For northern sea lions, incidental mortality in actively fished trawl nets is known to be a cause of unnatural mortality. Thus, increased trawling activity could exacerbate the decline of this species. Entanglement in derelict fishing gear and other marine debris is noted as an unnatural cause of mortality which is contributing to the decline of the northern fur seal population. Increased fishing activity could cause increases in the generation of lost and abandoned fishing gear that could increase the morality due to this cause.

Studies on seabirds in the Bearing Sea/Aleutian Islands ecosystem suggest alarming trends. Concerns have been raised that numerous species, such as kittiwakes, murres and cormorants, are experiencing population irregularities. All of these species depend upon pollock and other groundfish as prey sources. For example, a 1986 report by Vernon Byrd of the U.S. Fish and Wildlife Service reports that reproduction and population sizes of two species of kittiwakes in the Pribilof Islands, Alaska were severely depressed due to several successive seasons of virtual reproductive failure apparently caused by starvation. The majority of the kittiwakes' diet is pollock. Clearly, such information represents a warning signal that mismanagement of Bering Sea groundfish stocks could cause severe damage to seabird populations, many of which are protected by the U.S./Japan Migratory Bird Treaty.

Greenpeace is also concerned about reports of unregulated driftnet fishing for squid within the donut hole by Taiwan and the Republic of Korea. Driftnet fishing in this area would likely exacerbate environmental impacts—including interception of North American-origin salmon, and incidental mortality of Dall's porpoises, other marine mammals, and seabirds—caused by the high seas driftnet fisheries in other areas of the North Pacific Ocean.

It is clear that action should be taken to address these serious potential environmental impacts. Greenpeace recommends that the following measures be taken to protect the Bearing Sea ecosystem and its fish stocks, marine mammals, and seabirds:

The State Department should negotiate with the Soviet Union to obtain joint management jurisdiction over the so-called "donut hole": the international waters of the Bering Sea.

Appropriate action should be taken to influence the governments of Taiwan and the Republic of Korea to prohibit squid driftnet vessel from operating in the donut hole.

The Coast Guard and NMFS should establish a check point system to preclude Japanese and other trawl vessels from using the donut hole as a staging ground to fish illegally inside the FCZ. Coast Guard surveillance and patrol flights should be increased, and tracking transponders (to allow vessels to be tracked by satellite) should be required on foreign vessels under the provisions in the Governing International Fishing Agreements (GIFA's).

Civil penalties for foreign fishing infractions should be increased substantially. The current penalty levels are not high enough to successfully deter foreign vessels from engaging in illegal fishing inside the FCZ.

In light of the situation in the donut hole, it would be inappropriate for the North Pacific Fisheries Management Council (NPFMC) to approve the proposal to increase the upper limit of the optimum yield range (OY) above the current 2 million metric ton cap for Bering Sea/Aleutian Islands groundfish.

As an environmental organization, Greenpeace advocates that remedial action be taken expeditiously to reduce donut hole fishing activity so that a potential ecological crisis in the Bering Sea can be averted before it occurs.

We appreciate the opportunity to express our views. Please do not hestitate to contact me if you, or members of your staff, would appreciate any more information on Greenpeace's concerns in regards to this matter.

Sincerely,

ALAN REICHMAN,
Ocean Ecology Coordinator, North Pacific

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, DC, August 3, 1988.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: You previously wrote requesting that the Senate Committee on Commerce, Science, and Transportation be provided with written testimony from the Department of Defense to complete the hearing record on fishery management and enforcement in the Bering Sea. Enclosed is a written statement, as you requested, which summarizes our position on this issue.

Thank you for soliciting our views on this important matter.

Sincerely,

WILLIAM L. BALL III,
Secretary of the Navy.

Enclosure.

Thank you for affording the Department of Defense the opportunity to express its views on the matter of foreign fishing activities in the so-called Bering Sea "doughnut hole."

As you know, the Department of Defense is neither equipped to engage in fisheries enforcement activities, nor has it a charter to do so. Accordingly, we defer to other agencies, especially the Department of Commerce and the Coast Guard, on matters concerning the size and nature of the available fisheries stocks.

The fact that this issue involves fisheries resources should not, however, obscure the fact that the manner is which the United States approaches the issue could have significant consequences for fundamental principles of the international law of the sea. Because the law of the sea protects navigational rights and freedoms critical to maritime mobility, the Department of Defense is vitally concerned about the preservation of a stable regime of the seas.

In our view, the fundamentally important characteristic of the "doughnut hole" is, as your letter notes, that it is an "area of international waters between the exclusive economic zones of the United States and the Soviet Union." It is an area of the high seas, as that term is understood in the customary international law reflected in the 1982 United Nations Convention on the Law of the Sea (LOS Convention). In short, it is part of that maritime area in which the world community has the greatest freedom of action and, correspondingly, in which coastal states have the least authority to exercise jurisdiction over vessels of other countries.

We recognize that, with respect to natural resources, especially fisheries, the rights and freedoms of non-coastal states in areas of the high seas are not absolute. Thus, for example, coastal states have certain rights concerning anadromous and catadromous species, and they have rights over living and non-living resources of the continental shelf. For their part, fishing states have certain obligations concerning conservation of fish stocks in general and straddling stocks in particular. Nevertheless, areas of the high seas remain the high seas, and they are not subject to the jurisdiction of one or two countries that happen to border them. For that reason, the Department of Defense opposes suggestions that the United States, alone or in conjunction with the Soviet Union, assert and exercise enforcement jurisdiction over third-country fishing vessels operating in the "doughnut hole."

Permit me to take a moment to explain why we are so concerned about possible U.S. or joint U.S.-Soviet asssertions of jurisdiction over the "doughnut hole." The history of the law of the sea, especially since World War II, has been one of increasing coastal state claims to maritime jurisdiction. Each such increase correspondingly diminishes the rights and freedoms of the rest of the international community to use the seas. Coastal states invariably perceive even the most limited, functional jurisdictional claims as having a territorial nature that leads to diminution of other type of activities by non-coastal states.

Moreover, a limited jurisdictional claim by one country is all too often the springboard for a claim by another country that is more expansive—and, therefore, more detrimental to the interests of the world community. An excellent case in point is the United States' issuance, in 1945, of the two so-called "Truman Proclamations." One of them laid claim to the continental shelf, but carefully reaffirmed the high seas nature of the superjacent waters; the other announced the U.S. intention to establish, as necessary, fishing zones in areas continguous to the U.S. coast, but also reaffirmed the high seas nature of the waters. Notwithstanding the very limited nature of those jurisdictional assertions by the United States, within a few years a

number of countries, particularly in Latin America, laid claim to 200-nautical mile swaths of territorial sea.

Over time, the world community has reached something of a consensus on matters concerning the legitimate extent of coastal state juridiction—for example, that territorial seas may be no more than 12 nm, that exclusive economic zones (EEZs) may extend no more than 200 nm, from the coast, and that all high seas freedoms prevail in waters beyond the EEZ. That consensus is reflected in the 1982 LOS Convention.

The President's decision not to sign the 1982 LOS Convention was based not merely on the unacceptable nature of the seabed mining regime, but also on the assurance that our vital non-seabeds interests were adequately protected by the principles of customary international law reflected in the Convention. The subsequent success of U.S. oceans policy is attributable to this country's firmness in rejecting other countries' assertions of maritime jurisdiction that are not consistent with the Convention. Many such assertions have been premised upon so-called "unique" geographical, political or environmental factors.

The current balance of coastal and non-coastal state interests reflected in the 1982 LOS Convention is acceptable to the United States. For that reason, the United States has been in the forefront of countries demanding that others conform their practices to the international law principles reflected in the Convention. Our perception is that the Bering Sea fishery problem is unusual. Nevertheless, were the United States to begin unraveling this consensus regime by purporting to extend its jurisdiction over areas of the high seas—even for purposes of resource conservation—or by attempting to abridge high seas navigational freedoms in the EEZ, it would invite other countries to enact more extensive infringements on its vital navigational rights and freedoms. Such infringements would impair U.S. maritime and air mobility essential to the effective operations of our military forces.

The Department of Defense strongly supports efforts to develop a multilateral, cooperative regime for dealing with fishing in the "doughnut hole." Voluntary arrangements for the conservation and management of living resources in high seas areas would be in keeping with the best traditions of the international law of the sea. By the same token, coastal state assertions of jurisdiction over water-column fisheries would run counter to those traditions—and to the national security interests of the United States.

Thank you.

STATEMENT OF THE JAPAN FISHERIES ASSOCIATION

During the Congressional hearing concerning fisheries in the Bering Sea international waters held on March 16th at the Committee on Commerce, Science, and Transportation of the U.S. Senate, members of the U.S. fishing industry raised the allegation that Japanese vessels had engaged in illegal fishing activities in the exclusive economic zone (EEZ) of the United States. In addition, testimonies were given regarding high seas fishery management in the international waters of the Bering Sea. We have been informed that March 30th is the deadline for submitting written testimony regarding these matters, and would like to take this opportunity to file the following comments concerning the position of the Japanese fishing industry.

1. Measures for prevention of illegal fishing activities:

The Japan Deep Sea Trawlers Association and Hokuten Trawlers Association, whose members are engaged in fishing in the international waters of the Bering Sea, have been instructing their members to strictly observe the boundaries of the U.S. and U.S.S.R. EEZs. In addition, these organizations have advised their members to cooperate fully with the landing checks of their catch and with the sea inspections being implemented by the Japan Fisheries Agency. Furthermore, Japanese regulations, which will be effective from August of this year, will require fishing vessels to install Naval Navigation Satellite System (NNSS) aboard as a condition for receiving a fishing permit, for the purpose of recording the operating positions of all vessels. Japanese vessels will also be required to report to the Fisheries Agency Patrol vessels in advance of entering and leaving the high seas portion of the Bering Sea, and also to report their noon positions every day. When engaged in innocent passage through the U.S. or U.S.S.R. EEZs, Japanese fishing vessels will be required to cover and seal their nets in such a way that fishing activities would be impossible.

We believe that these precautionary measures will prevent any recurrence of doubt concerning illegal fishing activities by Japanese vessels.

2. Scientific research and conservation and management of resources in the high seas areas of the central Bering Sea ("Donut Hole"):

Substantial fishery operations in the Bering Sea international waters began in 1985, when Japanese vessels harvested 140,000 MT of Alaska pollock. In the following year, approximately 100 Japanese vessels participated, and the harvest rose to 700,000 MT. The total catch in the high seas portion by all fishing nations including China, Korea and Poland was around 1,000,000 MT in 1986. Harvest levels were approximately the same for 1987, and these figures clearly show how tremendously important Bering Sea international waters are to Japanese fishermen that have been displaced from their traditional fishing grounds within the U.S. EEZ. These Japanese fishermen, for the sake of continued long term stable operations in the international waters of the Bering Sea, thus strongly desire implementation of appropriate conservation measures based on the results of scientific research on resources. Following are our suggestions as to how this important purpose can be achieved.

(i) Scientific research on resources in the international waters of the Bering Sea: Based on our experience and information available to date, the Japanese industry submitted a report to the National Marine Fisheries Service (NMFS) last August that resources in the Bering Sea consist of 6 sub-populations, including an independent sub-population originating in the international waters. In addition, our report estimates that the biomass of Alaska pollock occurring in the Aleutian Basin, primarily in the high seas portion of the Basin probably equals or exceeds the 8.8 million MT which the Resource Assessment Document issued by the North Pacific Fishery Management Council in July 1987 estimates as the total biomass in the U.S. EEZ. The Japan Fisheries Agency has considerable confidence in these observations of the fishing industry, and in recognition of the need for accumulation of scientific data on the status of the resources, last August presented to the U.S. side detailed plans for future scientific research in the Aleutian Basin including international waters, and also expressed its willingness to cooperate with the concerned nations in implementing the required research. As will be explained later, we believe that an international agreement among coastal and fishing nations is a prerequisite for implementing fishery conservation measures in the international waters. It is therefore indispensable for all concerned nations to coordinate their scientific research programs, and to cooperate in research design and share scientific information resulting from such programs. For this purpose, the coastal as well as fishing nations should establish a forum for collection and exchange of scientific information at the earliest possible date.

(ii) Conservation and management of the high seas resources in the Bering Sea: Research by the concerned nations should first determine whether or not the stocks in the international waters are straddling stock which also occurs within the EEZ(s) of coastal nations; or if there is a substantial interaction between stocks in the international waters and those in the EEZs, and appropriate conservation and management measures should then be sought through consultation involving all coastal and participating fishing nations from time to time on a timely basis.

If the high seas resources are determined to be straddling stocks or there is a substantial interaction between stocks in the international waters and in the surrounding EEZs, then these stocks should, as a matter of course, be managed on an integrated basis. If such relationships are not found, then in order to maintain healthy stocks for future generations, appropriate conservation and management measures reflecting the actual status of the stocks should be sought through consultations involving the concerned nations including the bordering coastal states.

Even if the scientific investigations have not yet been completed, the concerned nations should seek to reach appropriate conservation measures on a timely basis, based on the best available data. It is preferable however that more permanent conservation and management measures should be sought in the forum mentioned in Section (i) above.

We firmly believe that this position is in accordance with the 1982 United Nations Convention on Law of the Sea (UNCLOS), and also with the basic position of the U.S.

(iii) Management of Bering Sea high seas fisheries on a bilateral basis between the U.S. and the U.S.S.R is contrary not only to the provisions of the 1982 UNCLOS, but to the U.S. position as well.

We have learned that there is an interpretation in the U.S. that the international waters of the Bering Sea should be managed as a semi-enclosed sea in accordance with Article 122 and 123 of UNCLOS. This interpretation, however, is contrary to both the letter of and intent in establishing Article 122 and 123, and is thus unacceptable to the Japanese side.

(A) Article 123 grants coastal states no rights in addition to those granted under other provisions of UNCLOS. As can be clearly seen in the text, this Article's purpose is to coordinate such various rights as are granted to coastal nations in their EEZs and territorial waters and to promote cooperative actions in the exercise of these rights.

(B) In addition, the text of Article 122 clearly demonstrates that the international waters of the Bering Sea qualify as neither an enclosed sea nor a semi-enclosed sea. The Bering sea, which contains the huge "Bering Sea international waters" belonging to no nation, is not "connected to another sea or the ocean by one narrow outlet", but is connected by multiple outlets including one of over 180 miles in width. In addition, the Bering Sea, with 4,500 square miles of international waters, is certainly not "consisting entirely or primarily of EEZs or territorial waters of two or more coastal States".

These two UNCLOS provisions were designed for the Baltic Sea and the Black Sea, and clearly were not meant to apply to the Bering Sea.

(iv) Unilateral expansion of fishery management rights by coastal states is not only contrary to UNCLOS, but only invites similar actions by other states, and is thus not only inappropriate from a strategic standpoint, but also not in the best interests of the nation's fishing industry.

(A) UNCLOS includes no provisions which authorize a coastal state to unilaterally extend its fishery jurisdiction into international waters beyond its own EEZ. In addition, there is no precedent of any such unilateral expansion of fishery jurisdiction.

UNCLOS (Article 63–2) provides that if the best available scientific evidence demonstrates that the high seas resources in the Bering Sea are straddling stocks occuring also within a coastal state's EEZ, efforts should be made to integrate management of the high seas portion of the stock with the coastal state's management of the portion within its EEZ. Based on this UNCLOS provision, Canada is striving to integrate management of its EEZ stocks with the management of the stocks in North Atlantic international waters. States participating in "Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries" (NAFO) accept this principle, and implement their high seas fisheries in the Convention areas according to the agreed upon terms and regulations.

(B) If a coastal state were to expand its fishery jurisdiction into Bering Sea international waters, then other nations would be likely to follow suit in other areas of the world. This could lead, for example, to a coastal state claiming jurisdiction over the NAFO international waters and forcing out U.S. fishermen from this area; or to Soviet vessels being smut out of the Chile or Argentina fishing grounds through a similar process. Thus unilateral expansion of fishery jurisdiction would actually result in detriment to a coastal nation's fishing industry.

(C) Unilateral expansion of fishery management jurisdiction has extremely adverse implications for military strategy that are impossible to ignore.

Statement of the Fisheries Agency of Japan

I. INTRODUCTION

Two distinct issues were raised during the hearing held on March 16, 1988 on Bering Sea fisheries matters. The first issue relates to recent allegations with respect to illegal fishing by Japanese vessels in the United States 200-mile zone and fears by U.S. industry spokesmen that illegal fishing by foreign fishermen may damage the fishery resources on which the U.S. industry depends. The second issue relates to the management of the fisheries lawfully taking place in the international waters of the Bering Sea. These issues are separate and we will comment separately on them.

II. THE MANAGEMENT ISSUE

A. *Japan's Fisheries in the International Waters of the Bering Sea are of Critical Economic Importance to the Japanese Fishing Industry*

The Bering Sea has for several decades supplied a significant portion of the seafood products entering the Japanese market. Both the Japanese fishing industry and the Japanese consumer depend heavily upon Japan's continued access to these resources, especially pollock.

Since 1976, the implementation of extended fisheries management jurisdiction by the United States and the Soviet Union has reduced the access of Japanese fishing vessels to the traditional fishing grounds within 200 miles of those nations in the Bering Sea. In 1988 for the first time, Japan has received no allocations from the

United States 200-mile zone. These developments have had drastic impacts on the Japanese fishing industry.

Faced with this grim economic situation, the Japanese fishing industry has had no choice but to develop the alternative fisheries still available to it. In this context, the pollock fishery which the Japanese fishing industry has developed in the international waters of the Bering Sea (the so-called "donut" or "donut hole" area) is now critical to our industry. In 1986 Japanese fishing vessels harvested approximately 700,000 metric tons of pollock from this area, with ninety-eight vessels permitted to fish in this area. Because of its proximity to northern Japan, this area has become important not only to Japan's distant water fishermen, but also to our shore-based fishing and processing industry. Altogether, approximately 200,000 Japanese citizens are now wholly or partially dependent upon the Bering high sea fishery. Thus, while Japan recognizes the need to develop an international mechanism to conserve and manage the fish resources in this area, Japan cannot accept any management arrangement to which Japan is not a party.

B. *A Multilateral Mechanism is Needed for Management of the Fisheries in the International Waters of the Bering Sea*

Japan, Poland, Republic of Korea and the People's Republic of China have conducted fisheries in the so-called donut area for several years. The Soviet Union, the United States and several other nations may also have an interest in conducting such fisheries. The relationship of the fish resources found in this area to fish resources found in the neighboring 200-mile zones of Japan, Korea, Canada, the U.S. and the U.S.S.R. are imperfectly understood; however, it is likely in our view that several distinct sub-populations of different origin mingle in this area. For all of these reasons, the Government of Japan believes that a multilateral mechanism is needed to develop an appropriate scientific basis for management and to manage the fisheries in this area.

The Government of Japan considers the implementation of an effective management regime for the international waters of the Bering Sea important to the preservation of Japan's fisheries in this area. In November 1987, Japan proposed to the United States and Canada that the multilateral organization contemplated by Article IV of the International Convention for the High Seas Fisheries of the North Pacific Ocean ("INPFC convention") be established to deal with the donut issue. Article IV provides for the creation of a new international organization separate from INPFC with a membership which would include all nations participating in the North Pacific fisheries. Although some in the United States have recently suggested that there is an emergency with respect to the managmeent of the donut stocks, the United States Government has yet to respond to Japan's proposal. The Government of Japan believes that further delay in developing a multilateral mechanism to deal with these issues is inconsistent with the interests of all concerned.

C. *There is No Immediate Emergency with Respect to Bering Sea Pollock Resources*

Japan shares the U.S. concern with respect to unregulated fishing in the international waters of the Bering Sea. As previously stated, Japan believes it imperative tc begin the process of implementing a multilateral management regime covering this area. However, the apparent perception in the United States that all fishing presently taking place in the donut area is "unregulated" is in fact false. Japanese fishing effort in this area is subject to Japanese domestic regulation. Accordingly, we do not expect the harvests of Japanese vessels to increase significantly in this area above the catch level reached in 1986 (700,000 m.t.).[2]

The best scientific information available indicates that the pollock harvests which have occurred in the donut area in recent years are not a threat to the health of the pollock resources in the U.S. 200-mile zone. The combined pollock harvests in the U.S. zone and in the donut area in 1986 were about 2.2 million m.t.—a harvest level near the mid-point of the Acceptable Biological Catch range (1.41 million m.t. to 2.82 million m.t.) proposed by the Scientific and Statistical Committee of the North Pacific Fishery Management Council in September 1987 for U.S. 200-mile zone pollock resources alone. A research survey conducted in the Aleutian Basin including the donut area by Japan's Far Seas Fisheries Laboratory in the summer of 1987 found preliminarily a pollock biomass of 9.10 million m.t. in that area—a population approximately equal to that found in the U.S. zone. Clearly, even if the stocks in the

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[2] Japanese domestic regulations limit the number of vessels authorized to fish in North Pacific and Bering Sea. Assuming no radical change in the access of Japanese vessels to the U.S. and Soviet 200-mile zones, the level of effort in the donut area should remain about the same as in 1986.

two areas comprise a single genetic population, there are large quantities of pollock in the donut area that have not been included in U.S. population estimates. When the additional pollock resources in the Aleutian Basin including the donut area are considered, the combined harvests in the two areas reflect exploitation at a rate lower than the exploitation rate used by U.S. managers to set the allowable harvest level for U.S. pollock resources (23 percent of exploitable biomass). Since the combined harvests in the donut area and in the U.S. zone have been lower than the exploitation rate used to set harvest levels in the U.S. zone, it is quite clear that the harvests in the donut area pose no threat to U.S. pollock stocks.[3]

While the Government of Japan shares the U.S. concern with respect to the alleged violation of U.S. laws by Japanese fishermen, the Government of Japan believes that recent assertions by U.S. industry spokesmen with respect to the potential magnitude of illegal fishing in the U.S. 200-mile zone are vastly exaggerated. As an example, in written testimony submitted to this Committee, Natural Resources Consultants (NRC) speculates that as much as 5 million m.t. may have been removed from the U.S. 200-mile zone off Alaska and the donut area in 1986 compared to a reported catch of 2.86 million m.t. However, NRC's assertions are based entirely on an analysis by the Southwest Alaska Municipal Conference (SAMC) of transshipment data collected by the National Marine Fisheries Service (NMFS)—an analysis which NRC admits it is "unable at this time to verify." [4] In a letter to the North Pacific Council dated December 30, 1987, the Alaska Regional Director of NMFS discredited the SAMC analysis, stating that duplication and errors in the transshipment data made the SAMC analysis unreliable and further that, in the view of NMFS Enforcement, "known catches in and outside of our 200-mile zone are in reasonable accord with the transfer data, even as presented by [SAMC]." Thus, there is simply no reason to believe that unreported or illegal harvests are of a magnitude that threatens the health of Bering Sea fish stocks.[5]

D. *Sound Relations Between the United States and Japan on Fisheries Matters are Essential to Both Nations*

Japan is the world's largest market for seafood products and the United States is a major beneficiary of that market. In 1987 the U.S. Department of Commerce has estimated that Japan purchased U.S. seafood products valued at over $1.1 billion—out of total U.S. exports of about $1.85 billion. In addition, Japanese companies made purchases of over $100 million through "over-the-side" joint venture contracts with U.S. fishermen. These figures compare to total U.S. fish exports in 1977 of about $520 million and exports to Japan in that year of about $219 million.

Japan is by far the largest customer for U.S. seafood products. The Office of the United States Trade Representative recently reported that Japan purchased almost 70 percent of all U.S. fish exports in 1987.

By contrast, Japan exported fish products to the United States in 1986 with a value of only $454 million, creating a trade surplus in favor of the U.S. in such products of approximately $650 million.

Japan has cooperated with the United States to increase Japanese purchases still further, modifying domestic trade regulations thought by the U.S. to impede the flow of U.S. seafood products into Japan. In 1987 Japan agreed to change its import quota system to eliminate restrictive impact of its import quotas on U.S. Pacific herring and pollock products. This step was perceived favorably by the U.S. fishing industry, which is now making substantial additional investment in surimi processing facilities. The U.S. Commerce Department now anticipates an increase of $100 million in U.S. pollock exports in 1988, as well as continued improvement in the terms of trade in herring.

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[3] At the December meeting of the North Pacific Council, scientists from the Northwest and Alaska Fisheries Center (NOAA) stated that the 1987 pollock survey showed no adverse impacts from the large 1986 harvest in the donut area, suggesting that the fisheries in the donut area may have no direct impact on the number of fish available for harvest in the U.S. 200-mile zone.

[4] "NRC is unable at this time to verify the accuracy of the SAMC transshipment data which is key to current estimates of round weight harvest." Statement of Natural Resources Consultants to the Committee on Commerce, Science and Transportation ("Evidence Documenting Illegal Foreign Fishing"), March 1988, at p. 16–17. Japanese industry representatives have recently been advised that a subsequent NMFS review of the SAMC study has in fact revealed "major errors" in that study.

[5] To believe the recent speculation with respect to the magnitude of illegal and unreported catches requires a belief that fishermen who would surreptitiously enter the U.S. 200-mile zone to steal over 2 million metric tons of fish would report the transshipment of their stolen fish to the National Marine Fisheries Service. This possibility is too unlikely to be given credence.

In addition to the large trade surplus which the U.S. enjoys in the trade of fish products with Japan, the U.S. has benefitted from positive relations with Japan on fisheries matters in many other ways. Through the INPFC mechanism, Japan has agreed to restrict the operations of its fishermen so as to substantially reduce the incidental catch of salmon of North American origin in Japan's high seas salmon fisheries. These agreements have contributed to a boom in the abundance of Alaskan salmon since 1978. In addition, Japan has implemented unilateral measures to restrict its squid driftnet fishermen to waters where salmon are unlikely to be present. Japan has already consented to accept U.S. scientific observers on board the Japanese squid driftnet vessels. Finally, Japan has consistently cooperated with the United States on the exchange of scientific data concerning the fish resources of the North Pacific. In particular, Japan is cooperating with the U.S. in research efforts to evaluate the size and structure of the pollock stocks of the Bering Sea. Particlarly, U.S. observers had already been accepted to be placed on board a Japanese research vessel in this season.

Japan and the United States are mutually interdependent in fisheries matters. Sound relations between our two countries on these matters are dependent upon recognition of this fact.

E. *Japan's Right to Fish in the International Waters of the Bering Sea is Established Under International Law*

The international fisheries presently conducted by several nations, including Japan, the Republic of Korea, Poland and the People's Republic of China, in the donut area are an exercise of long recognized high seas freedoms. The right of Japanese nationals to fish in this area beyond the 200-mile zones of any nation is firmly established in customary international law, as well as in the 1982 Convention on the Law of the Sea.[6]

III. THE ENFORCEMENT ISSUE

A. *The Japanese Government has Acted Expeditiously to Investigate Allegations of Specific Violations.*

The Government of Japan (GOJ) takes very seriously the recent allegations that Japanese fishing vessels have engaged in unlawful fishing within the U.S. 200-mile zone. The Japanese government immediately initiated an investigation of the alleged violations. This investigation has included sending a patrol vessel to the Bering Sea to conduct inspections of the vessels identified by the U.S., questioning the owners of these vessels, interviewing the captains and fishing masters of these vessels on their return to port, inspecting their catches in port and reviewing all pertinent vessel logs and records. Intensive investigation is still going on. If the violations are established in accordance with the requirements of Japanese law, the GOJ will impose the maximum penalties on those responsible.

B. *The Japanese Government has Taken Steps to Prevent Future Violations*

In addition, Japan has taken the following steps to prevent future violations:

The Government of Japan has reiterated prior administrative guidance directing all Japanese vessels fishing in the North Pacific and Bering Sea to strictly observe the boundary of the U.S. 200-mile zone. In addition, our Government dispatched additional fisheries inspectors to the fishing ports of northern Japan to inspect catches as they are offloaded and dispatched a patrol vessel to monitor Japanese fishing operations in the international waters of the Bering Sea.

The Government of Japan has required that by August 1988 all Japanese vessels with North Pacific fishing permits must install equipment which will continuously record the vessel's position through the Naval Navigation Satellite System (NNSS). All such vessels will be required to submit the resulting position records to the Japan Fisheries Agency for regular review. With appropriate safeguards against tampering, we believe that this equipment will produce accurate records of the positions of all Japanese fishing vessels operating in the North Pacific and Bering Sea. This should have a significant positive effect in preventing future violations of both domestic and international fisheries boundaries by Japanese vessels.

Finally, the Government of Japan has instructed all Japanese fishing vessels transiting the U.S. 200-mile zone to cover and seal their nets with canvas in order to eliminate any suspicion on the U.S. side that such vessels are fishing illegally in the U.S. zone—and in order to minimize any temptation to do so.

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[6] Japan, unlike the United States, has signed the 1982 Convention in 1983.

In order to understand the acutal patterns of fishing operations in international waters, the GOJ obliges fishing vessels to submit their effort plans on a quarterly basis. The GOJ is also prepared to request vessels operating in international waters to report time and location of check in and out of international waters and their noon locations to our enforcement vessels.

In addition to the foregoing, the Japanese Government is open to discussing with appropriate U.S. authorities whether additional measures should be implemented voluntarily by the fishing nations involved or on a multilateral basis to prevent future violations.

IV. CONCLUSION

Recent speculation by the U.S. industry that large quantities of fish have been taken illegally from the U.S. zone is based upon data that the U.S. government itself says are inaccurate and unreliable. Further, to believe this speculation requires acceptance of a premise that is simply not believable; namely, that vessels illegally fishing in the U.S. zone would contact the U.S. authorities to report transfers of massive amounts of illegally caught fish.[7]

Japan has a substantial economic interest in the stability of the pollock resources of the Bering Sea, particularly in the donut area. Accordingly, Japan has repeatedly urged the United States to join with the nations engaged in fishing in the donut area to establish a multilateral mechanism to conserve and manage these resources. The involvement of several nations in the fisheries in this area and the probable interaction of stocks of various origins there dictates a multilateral resolution to the management problem in accordance with established principles of international law. The Government of Japan again urges the United States to join with Japan and the other nations with an interest in these fisheries to begin work on such a multilateral resolution. For the United States to embark on any approach which would disregard Japan's substantial and legitimate interests in the fisheries of the donut area would be inconsistent with the mutually beneficial relationship our two nations now enjoy on fisheries matters and would shake that relationship to its foundations.

With regard to enforcement issues and allegations to the Japanese fishing vessels, the Government of Japan has taken immediate steps, not only to investigate the violations which have been alleged, but to prevent future violations. Although Japanese enforcement resources, like those of the United States, are limited, Japan is making every effort to cooperate with the U.S. on enforcement matters. Within the limits of its resources, the GOJ is willing to discuss other steps it might take to improve compliance with laws by Japanese fishermen.

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[7] It is equally unlikely that massive amounts of fish were harvested illegally by vessels lawfully permitted to operate in the U.S. zone. As the Alaska Regional Director of NMFS stated in his December 30, 1987 letter, "the nearly 100 percent coverage of TALFF and JV fisheries by well trained (U.S) obvservers makes it extremely improbable that large amounts of fish could be (underlogged)" by permitted vessels in these fisheries.